

**A TREATISE**  
**AND DISCOURSE OF**  
the Lawes of the Forrest: Wherin  
is declared not onely those Lawes, as  
they are now in force, but also the originall  
*and beginning of Forrestes: And what a Forrest*  
is in his owne proper nature, and wherein the same  
doth differ from a Chase, a Park, or a Warren, with  
all such things as are incident or belonging thereunto,  
with their severall proper Termes of art: as more  
at large doth appeare in the Table in the  
beginning of this Booke.

Also a Treatise of the Purallee, declaring what  
*Purallee is, how the same first began, what a Pur-*  
allee man may doe, how he may hunt and vse his  
owne Purallee, how far he may pursue and  
follow after his chase, together with  
the lymits and boundes; aswell  
of the Forrest, as the  
Puralley.

*Collected and gathered together, aswell out of the*  
*Common Lawes and Statutes of this land,*  
As also out of sundry learned auncient  
Aucthors, and out of the Assises and  
Itters of Pickring and Lancaster,  
by IOHN MANWOOD.

**AT LONDON**

Printed by Thomas Wight and  
Bonham Norton. 1598.

*Cum Privilegio.*



# A TREATISE

## AND DISCOVERY OF

THE LAWS OF THE EMPIRE

IN THE REIGN OF CHARLES THE FIRST

BY SIR EDWARD COKE

OF THE INNER TEMPLE

ESQUIRE

LONDON

Printed by I. Iaggard

at the Sign of the Sun in St. Dunstons Church

in the Strand

1628

Price 10s

By Authority

Printed by I. Iaggard

at the Sign of the Sun in St. Dunstons Church

in the Strand

1628

Price 10s

By Authority

Printed by I. Iaggard

at the Sign of the Sun in St. Dunstons Church

in the Strand

1628

Price 10s

By Authority

To the Right Honorable, CHARLES,  
*Lord HOWARD, Earle of Nottingham, Baron of Es-*  
*singham, of the noble order of the Garter Knight, One of her*  
*Maiesties most honorable priue Counsell, Lyeutenant of the*  
*Countrie of Suffex and Surrey, Constable of the Castle and*  
*Forrest of Windfore, Lord high Admirall of England,*  
*Ireland, and Wales, Lord chiefe Iustice and Iustice*  
*in Eire of all her Maiesties Forrestes,*  
*Chases, Parkes, and Warrens,*  
*by south Trent,*

**R**ight Honorable, and my  
good Lord, considering  
the great and prouident  
care, not onely of her Ma-  
iestie, but also that your  
good Lordship hath, for  
the preservation of the game in those For-  
restes, Chases, Parks, and Warrens, wherof  
you haue the charge, And seeing that so  
many do daily so contemptuously commit  
such heynous spoiles and trespasses therein,  
that the greatest part of them are spoiled  
and decayed: And also that verie little, or  
nothing, as yet is extant concerning the  
Lawes of the Forrest, I thought it very ne-  
cessarieto collect this small Treatise, decla-  
ring therein the wayes and meanes how to  
preserue and maintein Forrests, together  
with the due punishment of such as shalbe  
found offenders therein, to thintent, that  
thereby



*The Epistle dedicatorie.*

thereby, men may the better know those Lawes, wherein they so often offend, and the danger thereof, which being knowen, they may the better auoide. And to thend, that this Treatise may the rather satisfie them and my selfe also, it hath had the approbation of the learned, which hath carefully perused the same: Which Treatise, (my good Lord,) I do heer present vnto your Honor, most humbly beseeching your good Lordship to accept of the same, as the fruits and labour of a well meaning mind. And whatsoeuer is, or, shalbe found wanting through lack of time, may happilie hereafter be supplied vpon further search and consideration. And so most humbly crauing your Honorable acceptance of the same, and patronage of my well meaning towards your Honorable good Lordship, and the Forrest Lawes, I humbly take my leaue, beseeching God, long to continue your Honor with all yours, in health and happinesse.

Your Honors in all dutie, at commaundement. JOHN MANVVOOD.

## To the Reader.

**I** Am not ignorant, (gentle Reader) how dangerous a thing it is, to range in so large a field, as I haue here undertaken (which is to write of the Lawes of the Forrest beeing so learned a subiect) considering how many sundrie learned men may be able to controll me, and also how many excellent wits are able far to surpasse me. But, seeing that the best able do seem to be silent in this so necessarie a matter, giue me leaue, I pray you, that worst may, to hold the candle, and to begin the first enterprize herein: to thend, that some other of greater iudgement and learning may inlarge and amend that, which I haue begun: for, many will be willinger to amend a thing begun by an other, then to begin the same themselves. Thereasons, that moued me to undertake this businesse, are these: First, the necessarie use and common good, that may arise and grow to all in generall, by the publishing of this Treatise, in making the Forrest Lawes more certainly known then they were before, seeing that so few do know those Lawes, and yet so many do fall into the danger thereof. Secondl<sup>y</sup>, for that I do see by experience, that the Forrest Lawes are growen clean out of knowledge in most places in this land, partly, for want of use, and partly, by reason that there is verie little or nothing extant of it in any treatise by it selfe, but lying scattered here and there in the reportes of the yerres and termes of the Common Law, and in some other auncient Recordes remayning in sundry places not readily to be come by, by reason whereof, great iniuries and wronges haue insued to many, and for want of the knowledge of these Lawes, many fond opinions of vnlearned men, meere vanities and conceits, are taken and holden for Law, which are neither Law nor reason: Wherefore, as well to reuue in memorie these Lawes beeing so auncient



## To the Reader.

and learned prerogative Lawes, as also to satisfie the fond opinions and blind conceits that such vnlearned men do hold, I held it requisite to write this Treatise, which I hope euen by the iudgement of the learned, shall be thought both needfull and verie conuenient. And, in writing of this Treatise, least, by following of mine owne opinion and conceit, I might thereby the rather erre and be deceaued, I haue set downe nothing, for the which I haue not called to warrantie some one Autho<sup>r</sup> or other, and that not of the vnlearned sort but euen of the best and learnedest writers, approuing euery Argument by some lawfull ~~and~~ <sup>authoritie</sup>, as you may see by the Marginall notes therein, and that not by mine owne weak opinion, but by the iudgement of graue and learned men, whose good help and aduise I haue had in the perusing of this Treatise: Besides the approbation and allowance of the same by some of the most Reuerend and learned Iudges of the Common Lawes.

For the order and methood of this Treatise, I haue drawn it into twentie severall Chapters or heades, euery Chapter containing in it selfe certain particuler arguments, which are handled in order according to the matter and subiect whereof it treateth: as it doth appeare in the generall Table of Chapters in the beginning of this Booke. The whole scope whereof doth perfectly declare this much: First, the verie true and proper nature of a Forrest, with the originall and beginning thereof. Secondly, wherein the same doth differ from a Chase, a Park, or any other royall franchise of pleasure, with euery part and member of the same, and whatsoeuer is or may be belonging to a Forrest, and also how a Forrest ought to be ordered and gouerned by the Lawes and Officers of a Forrest, to preserve the same in a continuall flourishing estate, and likewise, what abuses and misdemeaners do cause the decay and ruyn of Forrestes. And lastly, all sortes of trespasses, trespassers, offenders, and malefactors in Forrestes, and their severall degrees, punishments, and remedies for the same.

And,

## To the Reader.

*And, as I began at my first entrance to step into a Forrest by the meeres and boundaries of the same, so hauing gone through euery part of it, viewing and considering whatsoeuer is contayned within the circumference thereof, I haue made, as it were, a perfect suruey of a Forrest, And do end with the Pouralley, which, although it be altogether without the limits and boundes of the Forrest, yet for the better preservation of Forrestes, the Lawes do in some sort as carefully regard the Purralleis, as if the same were Forrest still, as more at large shall appeare by reading of the Chapter of the Purralleis.*

*And thus (gentle Reader) hauing brought my work to an end, I leaue the same to your view, the matter to the iudgement of the lerned, and my selfe to your courtesies, desiring no greater gayne or reward at your hands for my tranell herein, then your friendly acceptation of this my poore labour: Which, if I find to be taken in good part, will incourage my going foreward in a far greater: But, if otherwise, I shall not onely repent me of my tranell that I haue taken in this, but also smother that, which I haue in hand.*

Your harty welwiller,  
Iohn Manwood.

The Faults escaped, you may correct thus.

Fol. 12. & 14. for *Paldy* read in Saxon *palðr*.

Fol. 23. b. lin. 6. and 23. for lands read lawnes.

Fol. 24. b. lin. 3. for first read fift.

Fol. 36. a. lin. 18 for *aportionentur* read *aprectionentur*.

Fol. 43. b. lin. 23. for hunt read haunt.





A briefe Table declaring the Chapters contained in this Booke, and also all the principall and generall matters in euerie Chapter, as followeth,

*Chap. 1.*

- 1 The definition of a Forrest.
- 2 Of what things a Forrest doth chiefly consist.
- 3 An explanation of the said definition.
- 4 The difference betweene a Forrest and a Chase.
- 5 That a Forrest doth comprehend in it a Chase, a Parke, and, a Warren.

*Chap. 2.*

- 1 Of the dignitie of a King, and his royall prerogatiue to haue Forrests, where he will appoint.
- 2 How a Forrest is made, and what doth make the same a Forrest.
- 3 In what places, Forrests ought to be made.
- 4 Whereof the same receiueth the name of a Forrest.
- 5 The antiquitie of Forrests.
- 6 What benefit doth grow to the king by the preservation of Forrests.

*Chap. 3.*

- 1 Who may make a Forrest.
- 2 Who may haue a Forrest.
- 3 How a Forest may be granted by the King to a subiect.
- 4 That a Forrest graunted in some sort to a subiect by the King, shalbe but a Chase in the hands of the subiect.

*Chap. 4.*

- 1 Which are beasts of Forrest, or beasts of Venerie.
- 2 Which are beasts of Chase.
- 3 Which are beasts and foules of Warren.
- 4 The difference betweene the beastes of the Forrest and the beastes of Chase.
- 5 Of their seuerall proper names, seasons, degrees & ages.

\* \*

6 Of



*The Contents of this Booke.*

6 Of the apt and meete termes of Hunting appertaining both to beasts of Venerie, and Chase.

7 Of the antiquity of hunting & chasing of wilde beastes.

*Chap. 5.*

1 What is Venison.

2 Of the generall signification of Venison.

3 Of the speciall signification thereof.

4 Whereof the same receiueth the name of Venison.

*Chap. 6.*

1 What is Vert in general.

2 How many sorts of Vert there are.

3 What is Vert in the Kings owne woods.

4 What shalbe said to be Vert in the woods of euery common person.

5 Whereof the same receiueth the name of Vert.

*Chap. 7.*

1 Of the meeres and bounds of the Forrest.

2 That euerie Forrest of necessitie must haue meeres and bounds.

3 That al the meeres and bounds of the Forrest do belong vnto the King onely.

4 The difference betweene *Infra regardum Forestæ*, and *infra Forestam*.

*Chap. 8.*

1 Of the woods and couerts of the Forrest, and of their differences.

2 That the Lawes of the Forrest doe restraine euerie man from cutting downe of his owne woodes within his owne freehold in the Forrest.

3 That in some sort men may cut down their woods within the Forrest.

4 What shalbe said to be wast, by the Lawes of the Forest.

5 What forfeiture and punishment doth grow to him that doth commit wast within the Forrest.

6 Whereof the same receiueth the name of wast.

*Chap. 9.*

*The Contents of this Booke.*

*Chap. 9.*

- 1 Of Affartes of the forrest.
- 2 What shalbe said to be Affarts or lands affarted.
- 3 What forfeiture or punishment doth growe to him that doth commit an Affart of the forrest in his owne woods or lands.
- 4 What forfeiture or punishment doth grow to him that doth make Affarts within the kings demesne woods or lands.
- 5 Whereof the same received the name of Affartes.

*Chap. 10.*

- 1 Of purpresture of the forrest.
- 2 What shalbe said to be purpresture within the forrest.
- 3 How many sorts of purprestures there are
- 4 What forfeiture and punishment there doth grow to him that doth comit purpresture within the demesne woods or lands of the King.
- 5 What forfeiture or punishment there doth grow to him that doth commit purpresture within his owne woods or lands.
- 6 Whereof the same taketh the name of purpresture.
- 7 What difference there is betweene wast, affart, and, purpresture.

*Chap. 11.*

- 1 Of Agistment, and what Agistment is.
- 2 Of the time of Agisting the Kings woods and lands.
- 3 Who shall Agist the Kings woods and lands.
- 4 Of the time of Agisting of other mens woods and lands.
- 5 Who shall Agist the woods and lands of other men.
- 6 Whereof the same taketh the name of Agistment.

*Chap. 12.*

- 1 Of Pawnage, and what Pawnage is.
- 2 Of the time of taking of pawnage in the Kings woods.
- 3 Who shall receaue the Pawnage of the kings woods



*The Contents of this Booke.*

within the Forrest.

- 4 Of the time of taking of Pannage in the woods of other men.
- 5 Who shall receaue the Pannage of the woods of other men within the Forest.
- 6 Whereof the same taketh the name of Pannage.
- 7 Of the difference betweene Pannage and Agistment.

*Chap. 13.*

- 1 Of the fence moneth or defence moneth.
- 2 How long the fence moneth doth last, and when the same doth begin and end.
- 3 At what time the fence moneth had his first beginning.
- 4 To what end, and for what cause, the same was first ordained and appointed.
- 5 How euery officer of the Forrest ought to demean him selfe in the time of the Fence moneth for the preservation of the wild beasts.
- 6 That no man ought to wander vp and downe in the Forest in the time of the Fence moneth without some speciall busines there.
- 7 Wherof the same taketh the name of Fence moneth.

*Chap. 14.*

- 1 Of Comon and Comoners within the Forest.
- 2 What Comon is, and wherof the same taketh the name of Comon.
- 3 How many sorts of Comon there are, and in what manner they be vsed.
- 4 Who ought to haue Comon within the Forest.
- 5 Who ought not to haue Comon within the Forest.
- 6 What beasts are Comonable within the Forest, & what beasts are not.
- 7 Of Surchargers of the Forrest, and who is a Surcharger by the Law.
- 8 How and in what manner a Surcharger of the Forest is

*The Contents of this Booke.*

to be punished by the Lawes of the Forrest.

*Chap. 15.*

- 1 Of the driftes of the Forrest.
- 2 At what time of the yeere the Forrest shalbe driuen.
- 3 How often in euery yeere the Forrest shalbe driuen.
- 4 For what cause the Forrest shalbe so driuen.
- 5 By whome the Forrest shalbe driuen.
- 6 In what māner the drifts of the Forrest shall be made.
- 7 In what places and Forrests, drifts shalbe so made.
- 8 Of what cattell or beasts, they are to make their drifts of.

*Chap. 16.*

- 1 Of keeping of Dogges within a Forrest.
- 2 Who may keepe Dogges within a Forrest.
- 3 What dogges may be kept within a Forrest.
- 4 What dogges may not be kept within a Forrest.
- 5 Of Hameling or Expeditating of dogges within a Forrest and to what end.
- 6 What dogs shalbe Expeditated.
- 7 By whom they are to be expeditated.
- 8 In what manner they are to be expeditated.
- 9 In what places dogges are to be expeditated.
- 10 What forfeiture there doth growe to the king for keeping of dogs vnexpeditated within a Forrest.
- 11 Who shalbe chargeable to pay the same forfeiture and in what manner.
- 12 Whereof the same doth take the name of Expeditating or Hameling.

*Chap. 17.*

- 1 Of Nufance of the Forrest and what shalbe said to be a Nufance of the Forrest.
- 2 How many sortes of Nufance of the Forrest there are.
- 3 Who shall inquire of Nufances of the Forrest.
- 4 How and in what manner the Nufances of the Forrest are to be remedied.



*The Contents of this Booke.*

- 5 How and in what manner, they, that do make nufances of the forrest, shalbe punished for the same.
- 6 Whereof the same taketh the name of Nufance.
- 7 Of the difference betweene Nufance at the common Law, and Nufance by the forrest Law.

*Chap. 18.*

- 1 Of Hauking and Hunting within the forrest.
- 2 Who may hauke & hunt within the forest, & who not.
- 3 Of licences to Hunt within the forrest, and how men may vse their licences in Hunting.
- 4 Who may graunt a licens or warrant to hunt within the forrest, and who may not.
- 5 Of the difference betweene a licence of pleasure, and a licence of profit.
- 6 Of him that hath a right or interest to haue yeerely a fee Deere within a forrest, and what remedie or meanes he hath by the Law to come by the same.
- 7 If he, that hath a licence or authoritie to hunt within the forrest, do abuse the same in Hunting, then he shall be a Trespasser in all *ab initio*.
- 8 Of a licence in Lawe, and a licence in fait, and their difference.
- 9 Of such as are Trespassers and malefactors in Hunting in forrests, and how they are to be punished & vsed for the same.
- 10 Of the signification of these two wordes, *Hauking* and *Hunting*.

*Chap. 19.*

- 1 That Trespassers and offenders in forrests ought to be attached by the ministers of the forrest, they finding them with the manner.
- 2 If such Ministers of the forrest of themselves be not able to take such Trespassers, then they may make Hewe and Crie after them, and so to cause the country

*The Contents of this Booke.*

they to rise and take them.

- 3 If that after such Hewe and Crie made, such Trespassers and offenders do still continewe their euill doing, and will not yeelde themselves to be taken, then if the forresters, or they, that do come to ayde them, do chaunce to kill any such offender, in arresting or taking of him being within the limits and boundes of the forrest, they shall not forfeit any goods, or any other thing, nor otherwise be arrayned for the same.
- 4 If that any such offenders will not yeeld themselves to be taken, but do rather flie out of the forrest, to thend that they will not be knownen, nor taken; then in some cases, they are still to be followed and pursued with Hewe and Crie, vntill that they be taken: and in some other cases, they are to be pursued with fresh suite within the view onely.
- 5 That all commaunders, ayders, receauers and assisters of Trespassers and malefactors in the kings forrestes, are all principall offenders, aswell as they that did the offence, for in Trespasses of the forrest, there are no accessaries, as there are in felonies.
- 6 How, and in what manner, Hewe and Crie shalbe made after an offender of the forrest.
- 7 By whom the same shalbe made.
- 8 How, and in what manner, the same shalbe pursued and followed.
- 9 In what manner, they are to bee punished, that doe refuse, or neglect to follow the Hewe and Crie, or to helpe to take Offenders and Trespassers of the forrest.
- 10 In what Cases, and for what offences or Trespasses of the forrest, Hewe and Crie is to be made.
- 11 Whereof called Hewe and Crie.

*Chap. 20.*



*The Contents of this Booke.*

*Chap. 20.*

- 1 What Pourlieu or rather Pourallee is.
- 2 How the same did first begin.
- 3 Whereof it tooke the name of *Pourlien*, *Pourlui*, or *Pourallee*.
- 4 That the *Pourallee* in some sort is forrest still.
- 5 That yet neuerthelesse the *Pourallee* is free for some men in some sort to Hunt there.
- 6 Of the difference betweene the forrest & the *Pourallee*.
- 7 Of the difference betweene the *Pourallee*, and that which is no *Pourallee*, nor forrest, but is absolutely free.
- 8 Who may Hunt in the *Pourallee*, and who shalbe said to be a *Pourallee man*.
- 9 In what sort a *Pourallee man* may Hunt in the *Pourallees*.
- 10 When and how often a *Pourallee man* may Hunt there.
- 11 How farre a *Pourallee man* may pursue and follow after his Chase.
- 12 When and in what cases a *Pourallee man* may pursue & follow his chase into the forrest, and there take & haue the thing so chased and killed, and when not.
- 13 Of the ordinances and Lawes of the *Pourallees*, and of their first beginning.
- 14 How, where, and in what sort, the offences and Trespases, that are done and committed in the *Pourallees*, shalbe tried and punished.
- 15 That because in some sorte the *Pourallee* is forrest still, therefore the King hath certaine Officers there, that do attend vpon the same, & haue charge of the *Pourallees*, which are called Raungers, being Officers rather to the forrest then in the forrest.
- 16 How a Raunger is made, what his Oth, authoritie and Office, is, and wherein the same doth chiefly consist.
- 17 Whereof called Raungers or Raunger.

# A TREATISE OF THE

Fol. 1.

## FORREST LAWES.

### Chap. j.

- 1 The definition of a Forrest.
- 2 Of what things a Forrest doth chiefly consist.
- 3 An Explanation of the said definition.
- 4 The difference betweene a Forrest and a Chase.
- 5 That a Forrest doth comprehend in it a Chase, a Parke, and a Warren.

#### I Of the Definition of a Forest.



As the most famous Orator, Marcus Tullius Cicero, in his first book of Offices saith, Omnis enim, quæ a ratione suscipitur de aliqua re, disputatio, debet a definitione proficisci, ut intelligatur quid sit id, de quo disputetur, every treatise of any matter, that by an orderly

Marcus Tullius Cicero  
Cap. 2.

course is taken in hand, must begin the procelle thereof at a Definition, to the end that it may thereby be perceaved, what the thing is, whereof the treatise goeth. And therefore, before that I do begin to treat of matters of Forrests, it is necessarie to set downe, what a Forrest is, which I do define in this manner,

A Forrest is a certain Territorie of woody grounds & fruitfull pastures, priviledged for wild beasts and foules of, Forrest, Chase, and Warren, to rest and abide in, in the safe protectiō of the King, for his princely delight and pleasure, which Territorie of ground, so priviledged, is meered and bounded with unremouable, markes, meeres, and boundaries, either knowen by matter of record, or els by prescrip-

The Defini-  
on of a For-  
rest.

tion :



tion: And also replenished with wilde beasts of venerie or Chase, and with great couerts of vert, for the succour of the said wild beastes, to haue there abode in: For the preservation and continuance of which said place, together with the vert and Venison, there are certain particuler Lawes, Priuiledges and Officers, belonging to the same, meete for that purpose, that are onely proper vnto a Forrest, and not to any other place.

2 Of what things a Forrest doth chiefly consist.

**A**N D therefore a Forrest doth chiefly consist of these foure things, that is to say, of vert, venison, particuler lawes & priuiledges, and of certain meet officers appointed for that purpose, to chend that the same may the better be preserved and kept for a place of recreation and pastime, meete for the royall dignitie of a Prince.

3 An Explanation of the foresaid Definition.

**S**O that now, hauing already defined, what a Forrest is in his owne proper nature, it is easie for any man, that will, yea euen at the sight and beholding thereof, hauing few consideration to euery generalitie, particularitie, and difference therein, to see, as it were in a glasse before his face, what a Forrest is and ought to be, and what is not a Forrest, and what thing the same doth lacke of a perfect Forrest in deed.

For the better vnderstanding wherof, it is to be noted, a Forrest is a certain Territorie of ground, this word (Territorie) is most properly a circuit of ground, containning a libertie within it selfe, where in diuers men haue land within it, and yet the same Territorie it selfe doth lie open and not inclosed, although perhaps there may be diuers inclosures

## Cap j. the Forrest Lawes.

tures within it, for this worde Territorie, as I take it, is deriued from the Latin word Territorium, which is a Territorie, or all the fields & countrey lying within the bounds and libertie of a Citie, which doth extend farre without the walles of the Citie round about, by certen meeres & boundaries, without any other inclosure belonging to the same: And, because a Forrest doth likewise lie open and not inclosed, hauing onely but meeres and boundaries to know the Ring and uttermost Skirtes of the Forrest by, therefore this word Territorie, is vled as a meete word for that purpose. The French man doth vse this word Territorie in the same sence, for he doth say le Territoire d'une ville, which is, the territorie or whole circuit of land, belonging to a towne or Citie.

And whereas it is said, that a Forrest is, a certen territorie of wooddy ground and fruitful pastures, Thereby is declared, what manner of Territorie of ground, a Forrest must be, that is to say, a Territorie of wooddy ground, stozed with great woods of couerts for the secret abode of the wild beasts, and also with fruitfull pastures for their continual feed: for, the want of either of these two, doth cause the exile of the wild beasts from the Forrest to some other place, for that the nature of the wilde beasts of the Forrest is, to flie vnto thicke couerts for places of Secresie to rest in, whereof if there be none within the Forrest, then they leaue the Forrest, and wander by and downe vntill they finde couerts else where, which being without the bounds of the Forrest, where those wild beasts are so found wandering, then they are hunted & killed to the vtter destruction of the Forrest: & in like manner it is, if the wild beasts haue not stozed of fruitful pastures within the Forrest for their feed, then they pine away and starue, or els they are forced to forsake the Forrest, and to seeke for foode without the Forrest, where they can finde the same, and



then there they are likewise hunted and killed, by which it is manifest, that a Forrest cannot haue continuance without wooddy grounds and fruitfull pastures, And so consequently it followeth, that to destroy the couerts of the Forrest, is to destroy the Forrest it selfe: Also, to conuert the pasture grounds, meadowes and feedings into arable land, is likewise to destroy the Forrest.

And whereas it is before mentioned, that a Forrest is a Territorie of wooddy grounds and fruitfull pastures, priuiledged for wild beastes and foules &c. Therein is declared, the difference betweene a Forrest, and other places of wooddy grounds and fruitfull pastures, for there be diuers Lordships, liberties, & precincts, that are full of woods, couerts, and fruitfull pastures, yea and perhaps of wild beastes also, and yet the same is no Forrest, for as much as the place it selfe is not priuiledged for those wilde beastes to haue a firme peace in, from the hurt of any other person, more then the proper owner of the soyle.

And for better vnderstanding of these words, priuiledged for wild beastes and foules: By adding these words, of Forrest, Chase, and Warren, is declared, what wild beastes and foules those are, that is to say, of Forrest, Chase, and Warren, and for no other. And therefore a Forrest is not a priuiledged place, generally for all manner of wild beastes, nor for all manner of foules, but onely for those that are of Forrest Chase & Warren. The wild beastes of the Forrest are five and no more, that is to say, the Hart, the Hynde, the Hare, the Boare, and the Wolfe. The beastes of the Chase are also five, The Bucke, the Doe, the Foxe, the Martrou, and the Roo, and no more are accompted beastes of the Chase. The beastes and foules of Warren are these, The Hare, the Cunnie, the Pheasant, and the Partridge, and none other are accompted beastes or foules of Warren. All these haue Priuiledge within the Forrest, as hereafter,

ter, in an other place, moze at large shalbe shewed and proued.

Then after these wordes of Forrest, Chase, and Warren, the wordes are, to rest and abide in: whereby is declared and shewed, for what cause the territorie of the Forrest is priuiledged, and that is, for the wilde beastes to rest and abide in.

And whereas those wordes, in the safe protection of the King, be mentioned, thereby is shewed by whome, those wilde beastes in the forrest, are protected and priuiledged, which is, by the king himselfe, so that it is thereby to be understood, that the will and pleasure of the king is, that all the wilde beastes within the boundes of the forrest shall be in safety there. And that the king himselfe, who is the principall head and gouernour of this common weale, who also is the fountaine of peace, by whom all his liege people and good subiectes are protected to liue in peace and safety, euen he, I say, of his Royall auctoritty hath priuiledged and protected those wilde beastes and foules, of Forrest, Chase, and Warren, within the territorie of the Forrest, to haue their rest and firme peace therein, without any hurt, disquiet, detriment, or damage, of any other person or persons whatsoever.

And by the wordes following, that is, For his princely delight and pleasure, is shewed, the finall cause, to what end and purpose, those wilde beastes and foules, are so protected and priuiledged within the Forrest, which is, for the delight and pleasure of the King onely, and his nobles, and for no other end nor purpose, nor for no other person or persons: so that hereby, euery man may perceaue, that it is not therefore sufferable for any other person, to hunte or hauke after any of those wilde beastes or foules aforesaide within the Forrest, without the licence or priuie of the King, or his Iustice in Eyre of the Forrest, or other lawfull



aucthority thereunto.

And by these wordes, Which territory of ground, &c. is mered and bounded with vnremoueable markes, meres, and boundaries, is shewed, by what meanes, the territorie or soile of the Forrest, is knowne and discerned from other land and soile which is not Forrest. For, although that a Forrest doth lie open, and not inclosed with hedge, ditch, pale, or stone-wall, which some other Inclosures haue, yet, in the eie and consideration of the Lawe, the same hath as strong an inclosure by those markes, meres, and boundaries, which go round about it, as if there were a brick-wall to inuiron the same, for as much as the force of the Lawe doth inclose a Forrest by those markes, meres, and boundaries, directly in a right line from the one of them to another round about, euen as if there went a stone-wall in the place to inclose the same.

And whereas it is said further, with vnremoueable marks &c. Therin is shewed, what markes, meres, & boundaries these are, for it is said, they are vnremoueable, & that is, such, as neither can, nor yet may be remoued: For, first they may not be remoued or taken away, because the king hath an interest in them, for they are the Inclosure of the kings Forrest, or, as it were, the pale that doth inclose the Forrest. And therefore they may not be remoued, for it is established as a Lawe Secundum assisam Forestæ, quod omnes metæ forestæ sunt integræ domino Regi, which is, that all the markes, meres and boundaries of a Forrest, are wholly the Kings, and therefore they may not be taken away, for as much as the Lawe doth prohibit the same. And they, that do goe about to take away any marke, mere, or boundarie of the kings Forrest, are punishable for the same by the assises of the Forrest. Secondly, those marks, meres and boundaries, cannot be takē away, for that they, for the most part, are vnremoueable of theselues in respect, that

that they are such things that they cannot be stirred or remoued, as be riuers, highwaies, hills & such like, & therefore they are vnremoueable, and yet sometimes for want of such meres and boundaries, great trees notably knowen, and such like things, haue beene vsed for meres and boundaries of the Forrest, but that is very seldome, & for want of other meres and boundaries that are moze permanent.

And where these words, with markes, meres and boundaries, are before vsed, which three words seeme to be verba æquipollentia, that is to say, many words of one signification, yet because I find those words oftē vsed in some of the olde perambulations of the Forrest made in anno 29. of Ed. the first, when the new Forrests were deuided from the old, which new Forrests are those that then were thereby disafforrested, which we now call Purualies or Purlicues, which perambulations do seeme to be made by Commissioners, which were men of great learning & iudgement, wherein they do vse the very same words, & as I do take it, to thende to signifye the difference of such things as are boundaries of the Forrest, the words being these, *Secundū meras, bundas, & meras p̄dictas*, wherein they seeme to vnderstand this word *Meta*, a marke, for any thing that hath an ascending from the ground byward in height, that they call a marke, as, a hill, a Church, a Tree, or such like. By this word *Bunda*, a boundarie of the Forrest, they vnderstand any thing whereupon the Forrest is bounded, which is a leuell, and not higher in viewe, then the soyle of the Forrest it selfe is, as a Riuer, a Highway, and such like. By this word *Mera*, a mere of the Forrest, they vnderstand the distance and place betweene the Forrest and the soyle of any other man, whereupon any thing doth stande, that is a marke of the Forrest, in which marke the King hath no interest in the thing it self, for notwithstanding the former ground, *Omnes metæ Forestæ sunt integræ dño Regi*, which is that  
all



all the meres and boundaries of the Forrest are the kings, yet there is no principle or ground so generall, that there is not some particularitie exempted out of it, euen so it is of this principle or Rule, for, although the wordes be generall, that all meres and boundaries of the Forrest shall bee wholly the kings, yet the same must be vnderstood of such things as are or may be any succour or reliefe to the wilde beasts of the Forrest, and not otherwise. For, if a dwelling house, or a mille, or such like, bee a mere or marke of the Forrest, yet by this, the king shall not haue any interest in the same thereby, for as much as such things are ad terrorem ferarum Domini Regis, that is to say, a terror or a feare vnto the wilde beastes of the Forrest, rather then any succour, couert, or reliefe for them, And therefore y king must haue no part of them: Therefore of necessity there must be a distance and place betweene the Forrest, and such thinges, for as much as the King hath no interest in such things, Although the same be a marke or boundarie, and then such a distance or place betweene the kings Forrest, and such things, wherein the King shall haue no interest, they call a mere of the Forrest: in some perambulations of Forrestes, they doe vse no more wordes, but these two, per metas & bundas, which as I doe take it, maye very well be vnderstood of all maner of markes meres and boundaries, although some men haue taken these differences aforesaid.

And whereas it is before said, either knowne by matter of Record, or els, by prescription, therein is shewed, by what meanes, the markes meres and boundaries of Forrests are to be known, which is by one of these two means, or els by both of them, for, all such Forrests, as were newly enlarged by the afforestation of king Henry the seconde, king Richard the first, or king Iohn, those Forrestes haue their markes meres and boundaries, knowne by matter of Record,

Record, for that there were perambulations of them made in the time of Edward the first, because of the disafforestation of those new afforestations: And so all those Forrests haue their markes Meres & Boundaries knowen at this day by matter of Record: But al such Forrests, as were auncient Forrests before the time of king Henry the second, whereof there were no such perambulations made since his time, because the Inhabitants neere about such Forrests had no cause to complain of any such new afforestations, as the others had, Therefore all those Forrests haue their markes meres and boundaries, knowen by prescription onely, for there is no matter of record to be found to know the markes meres and boundaries of those Forrests by. And therefore it is said, either knowen by matter of Record, or els, by prescription, for, there is no other way to know them by: Unto this it may be objected and said, that the King cannot make a Forrest but by matter of record, which I confesse to be true, but yet the King may haue a Forrest by matter of record, & yet the markes meres and boundaries thereof, are not now to be known by matter of record, but onely by prescription, for although, when such auncient Forrests were first made, the markes meres and boundaries thereof were then known by matter of record: Yet it is now so long ago since the making of them, First that by reason thereof, and the troublesome times that haue been since, there is now no matter of record to be found to know those markes meres and boundaries by. The Newest Forrest, that is in England at this day, is the new Forrest in Hampshire, for ther is no Forrest that doth now remaine a Forrest, that was made since the making of the New Forrest in Hampshire, (the Forrest of Hampton Court onely excepted) and therfore the same is called New Forrest, & yet the same was made a Forrest in William the Conquerors time:

B

But



But there is no other Forrest in England, whereof the beginning or making can be shewed, neyther by the Chronicles, Histories, nor Record, so auncient are all the other Forrestes of this land: And as auncient are the Forrest Lawes, sauing some few of them, that are altered and made more fauorable, then they were, by Charta de Foresta, and other later Statutes, that haue been made since Charta de Foresta.

And whereas it is further said, namely, And also replenished with wild beastes of venerie or chase, therein is shewed, that of necessitie, a Forrest must alwaies haue beastes of venerie, or beastes of chase, abyding in it, for otherwise the same is no Forrest: for if there be neither beast of forrest, nor beast of chase in the same, then men may sell their woodes that they haue within the Forrest, and destroy their Couerts, for that there are no wild beastes remayning in it to haue couert there: And in like manner may conuert their pastures and meadowes, that they haue within the Forrest, into arable land to their best commoditie. But if there be wild beastes, either of venerie or chase, remayning in any one part of the Forrest, although ther be none in some other part of the same, yet then the same remayneth a Forrest still, And then they, that haue woodes within the Forrest, although they be in those parts of the Forrest, whereas there are no wild beastes to haue couerts, yet they may not sell them, nor destroy them, nor otherwise conuert their meadowes nor pastures into arable land, without licence so to do, for asmuch as the wild beastes must haue couerts and feedings in euery part of the Forrest, to haue recourse vnto, if they fortune to be chased from their wonted layer: But if there be neither wild beast of venerie nor chase, remayning within the territorie or circuit of the Forrest, then the same is a Forrest no longer, for now it remayneth but a Territorie of ground or woody soyle,  
as it

Cap. j. the Forrest Lawes.

6

as it was at the first, and no Forrest. And therefore of necessitie, a Forrest must be replenished with wild beastes of venerie or chafe.

And by these wordes, great Couerts of vert, for the succour of the wild beastes to haue their abode in, &c. is shewed the necessitie of the preservation of the Couerts of the Forrest, forasmuch as the distruction of the couerts, doth banish the wild beastes from the forrest, and the exile of the wild beastes from the forrest doth make the same no Forrest at all in the end: And therefore, the more forceable to shew the same, there is vsed this word (replenished) comming of the verbe Repleo, which is to fill vp againe with new supply, so that still as the Couerts of the forrest be felled or cut downe, the forrest must be replenished with couerts: Wherefore men may not fell or cut downe their owne woodes, that are couerts, being within the Forrest, without licence of the Lord chiefe Justice in Eyre of the Forrest. And a licence from him to cut downe their woodes, which are couerts within the Forrest, is not to be granted, vnlesse there be sufficient couerts for the wild beastes besides left, remayning vnfelled. And those woodes of couert, that are felled by licence, yet the springes thereof must be carefully preserved, that they may grow to be couerts againe in short time, for although they haue licence to fell their woodes, yet they had not licence to destroy them.

And where before it is added, with great Couerts of vert, therein is shewed what couerts those must be, viz. couerts of vert, which word (vert) doth comprehend euery thing that doth grow and beare greene lease within the forrest, that may couer and hide a Deere in it.

And where it is further added, for the preservation and continuance of which said place, together with the vert and venison, there are certaine particuler Lawes,



priuiledges and Officers belonging to the same &c. In those wordes is declared and shewed, wherein a Forrest doth differ from all other places, that is to say, in particular lawes and officers: And also the whole scope and force of those particular Lawes, which do consist in these three things, that is to say: The preservation and continuance of the place, which is of the Forrest: Of the Vert, which is the greene woods that are couerts: Of the Venison, which is euery beast of Forrest and chase, by a generall woord bled for them all, And there can be no trespass committed by any offendour in the Forrest, but the same must be in one of these three points, that is to say, a hurt to the Forrest, to the Vert, or to the Venison.

And the Lawes of the Forrest are called particular Lawes, for that, although they be generall to all Forrests alike, yet they are particular Lawes, in that they are proper to Forrests, and not to any other places.

And where it is said, there are certain Officers belonging to the same, therein is shewed the iurisdiction of the Forrest, forasmuch as all offences and trespasses of the Forrest, must be tried before the Officers of the Forrest. The Officers, that a Forrest must of necessitie haue, are these, viz. A Steward, Verderers, Forresters, Regarders, Agisters, and Woodwardes, which Officers are they that do hold the Courts of the Forrest, for the due execution of the Forrest Lawes: As hereafter more at large shall be shewed.

#### 4 The difference betweene a Forrest, and a Chase.

**I**n these three things, a Forrest doth differ from a Chase, that is to say, in particular Lawes, in particular Officers, and in certaine Courts, that are insident vnto a Forrest, for the execution of those Lawes: For a Chase hath

no

no particuler Lawes, that are proper to a Chase onely, for all offenders in a Chase are to be punished by the common Law, and not by the Forrest law, nor by any other law that is proper to a Chase. A Chase hath no such officers as a Forrest hath, for a Chase hath neyther Verderers, Forresters, Regarders, nor Agisters, but onely Keepers and Woodwardes. A Chase hath no Court of Attachments, Swannimote, nor Justice Seat, as a Forrest hath. And note, that these Officers which are called Keepers in a Chase, are called Forresters in a Forrest.

- 5 That a Forrest doth comprehend in it a Chase,  
a Parke, and a Warren.

**A**S a Forrest in his owne proper nature is the most highest fraunchise of noble, and princely pleasure, that can be incident vnto the Crowne and Royall dignitie of a Prince, so the next in degree vnto it is a Liberty of a frank Chase. A Chase in one degree is the selfe same thing that a Park is, & there is no diuersitie between them, saue only that a Park is inclosed, & a Chase is alwaies open and not inclosed, and therefore the next in degree vnto a frank Chase is a Park. The last and next in degree vnto a Park is the libertie and fraunchise of a free Warren, And therefore because a Forrest in dignitie is both the highest and the greatest fraunchise, being also a generall and compound word, the same doth comprehend in it, a Chase, a Park, and a free Warren: And for that cause, the beastes of Chase, and the beastes and foules of Warren, are priuiledged within a Forrest, aswell as the beastes of the Forrest are: For euery Forrest is a Chase, a Park, and a Warren, for the same doth comprehend euery one of them in it, euen as euery generall doth comprehend the speciall: for euery Forrest is a Chase, but a Chase is not a Forrest, but



Cap. ij.

A Treatise of

a part of it. And in like sort of a Park and a Warren : And by that reason, the killing, hurting, or hunting, of any of these beasts or foules, of Chase, Park, or Warren, within the territorie of the Forrest, is a trespassse of the Forrest, and to be punished by the Lawes of the Forrest only, and not by any other Law.

Chap. ij.

- 1 Of the dignitie of a King, and his Roiall prerogative to haue Forrestes where he will appoint.
- 2 How a Forrest is made, and what doth make the same a Forrest.
- 3 In what places Forrestes ought to be made.
- 4 Whereof the same receiveth the name of a Forrest.
- 5 The Antiquitie of Forrestes.
- 6 What benefit doth grow to the King by the preservation of Forrestes.

- 1 Of the dignitie of the King and his Roiall prerogative to haue Forrestes where he will appoint.

Bracton Lib.  
primo Cap. 8.  
fol. 5.

**T**he King or Soueraigne gouernor of a Realme, is the most excellent & worthiest part or member of the body of the common weale next vnto God : as Bracton saith, Ipse autem Rex non debet esse sub homine, sed sub Deo & Lege, quia lex facit Regem, The King ought not to be vnder man, but vnder God and the Law, because the law doth make him a King. And as he is the head and most excellent part of the body of the common weale, so is he also  
through

through his gouernance, the p̄seruer, nozisher, & defen-  
 der of all the people being the rest of the same body : And  
 by his great trauels, studie, and labors, they inioy not onely  
 their lyues, lands, & goods, but all that euer they haue be-  
 sides, in rest, peace, & quietnes: As Seneca de Consolatione  
 ad Polibium saith, *Omnium domos, illius vigilia defendit: omnium otium, illius labor: omniū delicias, illius industria: omnium vacationem, illius occupatio:* The King by his  
 watch and diligent care doth defend and keepe euery mans  
 house in safetie : his labor doth maintain and defend euery  
 mans rest and quiet: his diligence doth p̄serue & defend  
 euery p̄uate mans pleasure and delight : his busines doth  
 maintain and defend euery mans leasure: So that, euen as  
 the head of a natural body doth continually watch, & with  
 a p̄ouident care still look about for the safetie & p̄serua-  
 tion of euery member of the same body : Euen so, the king,  
 being the head of the body of the common weale, doth not  
 onely continually carry a watchful eye for the p̄seruation  
 of peace and quietnes at home amongst his own subiects,  
 but also to p̄serue and keepe them in peace and quietnes  
 from any forrain inuasion, for which cause the Lawes do  
 attribute vnto him all honor, dignitie, prerogatiue, and pre-  
 heminance : which prerogatiue doth not onely extend to his  
 own person, but also to all other his possessions, goods, and  
 chattels beside : And therefore in respect of his continuall  
 care & labor, for the p̄seruation of the whole Realme, be-  
 ing the residue of the same body, The lawes do allow vnto  
 the king, amongst many other p̄uiledges, this preroga-  
 tiue, to haue his places of recreation & pastime, wheresoeuer  
 he will appoint : for, it is at the libertie and pleasure of the  
 king, to reserue the wild beasts & the game to himselfe for  
 his onely delight and pleasure, in such p̄uiledged places  
 where he will haue a firme peace appointed for them : For  
 the king may by the Law make a Forrest euen at his will  
 and

Seneca de  
 Consolati-  
 one ad Poli-  
 bium.

6.



M. 9. & 10.  
Eliz Com. in  
fol. 318. b.

Bracton Lib.  
3. Cap. 1.  
nota 2.

Br. Action sur  
lestatut 48.

Br. Quo war-  
ranto 7.  
Anno 6. E. 2.  
22. assisatū p.  
34.  
Lib. Intrac-  
in Quo war-  
ranto 2.  
Bracton Lib.  
2. Cap. 24.

and pleasure for them to rest and abide in, Euen as by the Law he may enter into the ground of any of his subiects, wheresoeuer there are any Mines of gold or siluer to be found, & digge the land at his pleasure for the same mines, and carry them away, for that they are things that do belong vnto the king onely, in whose freehold or land soeuer they chance to be found: for gold and siluer are things of the most excellency, that are vpon the earth: and therefore, when they are found in the land of any man, the Law doth attribute them, being things of such excellency, to belong to the most excellent person, which is the King. And in like maner wild beastes of venery, and beastes and foules of chase and warren, being things of great excellency, they are meetest for the dignitie of a Prince for his pastime and delight: and therefore they do most properly belong vnto the king onely. And for that cause, it is not lawfull for any man within this land to make any Chase, Park, or Warren, in his owne freehold, or elsewhere, to keepe or preserue any wild beastes or birds of Forrest, Chase, Park, or Warren, in it, without the kings graunt or warrant so to do. And if any man do, he is to be punished in a Quo warranto, and the fraunchise to be seised into the kings hands, for such wild beastes do belong vnto the king, as Bracton saith in his second booke, Habet enim Rex præ cæteris omnibus in Regno suo, de iure gentium, priuilegia quæ de iure naturali esse deberent inuentoris, sicut Thesaurū, Wreccum maris, crassum piscem, Sturgionē, Wayuium, quæ in nullius bonis esse dicuntur: Habet etiam de iure gentium in manu sua, quæ de iure naturali deberent esse communia, sicut feras bestias, & aues non domesticas, quæ deberent esse communia de iure naturali, & per apprehensionem & captionem & aucupationem propria, which in English is thus: And also saith Bracton, The king hath certain proper priuiledges by the common Law of this Realme, aboue all other

other men, within his kingdome, that he onely shall haue these things, which by the lawe of nature ought to be y<sup>e</sup> finders, as treasure troue, wrecks of the sea, great fishes, stur-  
gions, and wayfes, which are said to be the goods of no o-  
ther man, therefore the King by his prerogatiue shall haue  
them: He also by the common lawe shall haue in his owne  
possession, all such things, which by the law of nature ought  
to be common, as wild beasts and foules, that are not tame,  
which by the lawe of nature ought to be common, and are  
made proper by the possession and taking of them, as by  
Fouling, Hunting and such like. And although men may  
kill such wild beasts in their wildnes, when they are found  
wandering, beyng out of any Forrest, Parke, Chase, or Clar-  
ren: Yet no man hath any property in them, vntil they haue  
killed them, for, during the time of their wildnes, they are  
Nullius in rebus, and then they must needes be said to be In  
manu domini regis, in the kings possession: And then the  
King may priuledge them in any place where he will ap-  
point, and so prohibite any man to kill or destroy them.

2 How a Forrest is made, and what doth make  
the same a Forrest.

**V**hen the King is minded and determined to make a  
Forrest in any place that is meete for the same, he  
doth graunt a commission out of his court of Chancery, vn-  
der the great Seale of England, directed to certen wise  
and discrete persons fit for that purpose, therein declaring  
that his will and pleasure is, to make a Forrest in such a  
place, in such a Shire within so many miles of such a place,  
and therefore by the same Commission he doth will & com-  
maund them, that they shall diligently perambulate & view  
all the whole Countrey and Shire within so many miles  
compas, and so much of the same, as they by their view and  
peram:



perambulation shall thinke meete and conuenient to make a Forrest of for his delight and recreation, to bound and mere the same, by sufficient marks, meres and boundaries to inuiron it round about, so that by those marks, meres and boundaries, the circuit and whole compasse of the Forrest may vnto the King be knowen, and decerned from other land which is not Forrest. And also, further willing and commaunding them, that they shall certifie him, of their proceeding therein, in his Court of Chauncerie befoze such a day &c. And then, when these Commissioners haue met together, and that they haue viewed and considered of the whole circuit of ground, whereunto they were by their Commission directed, how much of the same is to be made a Forrest, and how much is not meete for that purpose, then they do make their perambulations round about the same, and doe lymit out the circuit and compasse of ground, that shall remaine Forrest, and do mere and bound the same, with great Hilles, Riuers, and Highwaies, and sometimes with Trees, that are notably knowne, so that the same may evidently be knowne from time to time, by those marks, meres and boundaries, which is Forrest, & which is not Forrest: And when they haue this done, they retozne their Commission into the Chauncerie, and do therewithall certifie the circuit and compas of ground, that they haue so mered and bounded, beginning at such a brydge, ouer such a Riuer, the highway ouer the same, leading from such a place to such a place, as the highway there goeth all on the right hand of the same highway is Forrest, and so directly from marke to marke, mere to mere, and boundarie to boundarie, inuironning the same round about, vntill they do come to the same place where they first began their perambulation, and then this being so by them retozned, and certified into the Chauncery, then the king is intituled vnto the same by matter of record, but  
neuer

neuerthelesse the same is not yet a Forrest. But now, all this being done, if the King do like of the place that they haue so returned and certified, and do also continue his former determination therein, then he doth cause a Writ to be made out of the same court of Chauncery, directed to the Sherife of the same shire, wherein the place is, that they haue so returned for a Forrest, reciting in the same writt briefly, the whole proceeding of the said Commissioners, and the circuit of ground that they haue viewed and perambulated, and their returne and certificat of the same, & that they haue appointed so much ground, as is comprehended within that circuit or Territoire of ground, inclosed with those marks, meres, & boundaries, to be a Forrest, & so reciting all the whole Territoire of the Forrest, by the marks, meres and boundaries, as they returned the same, verbatim, commaunding the same Sheriffe by the said writ, to make open Proclamation throughout all his whole countie, as well in all Bozroughs and other Townes, as also in all Fayres, Markets, and other publicke places, that the king hath appointed, all the whole Territoire of ground, inclosed with these marks, meres and boundaries &c. according as the same is mered and bounded, and returned into his court of Chauncerie, to be and remayne a Forrest, & that no manner of person or persons whatsoever shall after such a day hunt or chase there after any manner of wild beasts of venerie or Chase, for that the kings wil & pleasure is, that all the wild beasts, remaining and being within the Territoire of the same, shall remaine & be there, in safetie & firme peace, for his delight & pleasure onely. And after such proclamation made and returned into the Chancery by the Sheriffe, the same is no perfit Forrest yet, but a Chase: For, the perambulation, made as is aforesaid, and also, the returne and certificate of the same into the Chauncerie, by matter of record, without any such Proclamation, doth

Le roy auera  
certain cho-  
ses per mat-  
ter de record  
& non aliter,  
Vide 14. E. 4.  
fol. 2.  
Consimile B<sup>e</sup>  
prerogative.  
70.



not make the same eyther a Forrest or a Chase, but onely a Territorie of ground: For, although the king be intituled vnto the same as a Forrest by matter of record by the Retorne of the perambulation, yet the same is netther Forrest, nor Chase, vntill that it be openly proclaimed by the Kings commaundement to be a Forrest, to the end that euery man may by the same Proclamation take notice, that the Kings wil and pleasure is to haue the same to be a Forrest. And so it appeareth that the perambulation made of the place, and the mereing and bounding of the same, the certificate thereof by matter of record, and then the kings Proclamation, as is aforesaid, and the retorne of the same, all these things do not make the same place a Forrest, but onely a Chase as yet. And then after all these things perfected, as is aforesaid, to make the same a perfect Forrest in deede, and to haue it indure and continew a Forrest, the King doth make and appoint certen meete Officers for the same, as Verderers, Forresters, Regarders, Agisters, and Woodwards, as hereafter in an other place moze at large shalbe declared. And then a Forrest beyng thus made, and such Officers appointed for the same, there are certen proper Lawes and Courts, as, the Court of attachments, or Woodmote, the court of Swannimote, and the Court of the Lord chiefe Iustice in Oyer of the Forrests, which are incident vnto a Forrest, euen as a court Baron is incident vnto a Mannor, or a court of Pipowders vnto a Faire, so that vntill the same haue those officers and courts aforesaid, the place is but a Chase, and not a Forrest, so that hereby you may see how a Forrest is made, and how a Chase is made, and when the same is a Forrest and when a Chase, and what doth make a Chase, a Forrest.

But yet here is to be noted, that all Forrests haue not euery one of these Officers belonging to them, for there are some Forrests that haue no Agisters, because the King hath

hath no woods in those Forrests to Agist, but in euery Forrest, where the king hath any woods to Agist, their must be of necessitie Agisters belonging to those Forrests, to the end that the king may be answered by them of his Agistment of his woodes, and of the good gouernment of the same.

Both Master Hesket and M. Treherne in their reading of the lawes of the Forrest, do affirme that, in like manner, for the making of a Forrest, a Writ may goe out of the Chauncery to the Shirisfe of the Shire, to inquire what place is most conuenient to make a Forrest in, whereupon the Sheriffe shall charge an inquest to inquire of the certentie of the place, and to mere and bound the same, and to put those markes, meres and boundaries in writing, and then to certifie the same into the Chauncerie, and when the king is thereof ascerteyned by matter of Record, he may then direct his writ out of the Chauncerie to the Sheriffe of the same Shire, commaunding him that he shall cause it to be proclaymed in the kings name, that the place, which he hath so certified, shall from thencefoorth be and remaine a Forrest, and that all manner of persons shall refraine from Hunting or Chasing of any of the wild beasts within the boundaries of the same, and then vpon the proclamation of the same made and returned into the Chauncery as is aforesaid, the same is yet, but a Chase, notwithstanding all this, vntill the king doth appoint Officers and lawes for the same, as aforesaid, which things do make the same a Forrest.

And also it appeareth by the Statute of xxri. of king Henry the eight Cap. 5. that the said king hauing builded and made Hampton Court, a most beautifull and sumptuous manner, decent and conuenient for a king, adozned with princely Parkes, Gardens, Orcharde, & other things of great commoditie and pleasure, meete and requisite for

Master Hesket in his reading f. 10. Treherne fol.

A Forrest made by act of parliamēt An. 31. H. 8. Cap. 5.



his most Royall person, and also for the further aduancement and amplification of his most princely pleasures and delights there, he assigned and limitted a certen Territoꝝ of ground, lying and beyng within the pꝛecints of Estmulsey, Westmulsey, Walton and Esher, neere adioining vnto his said manner of Hampton Court, to be a Forrest, which Territoꝝ of ground he hath mered and bounded with certen cōuenient meres & boundaries, and appointed the same for the noꝛishing, generation, and feeding of wild beasts of venerie and Chase, and also for beasts & foules of Warren, which Territoꝝ of ground was made a Forrest by the said Act of parliament of 31. of H. 8. cap. 5. which Statute did also enact, that the said Forrest should haue all such lawes and officers meete for the punishment of al offenders in the same, as al other Forrests within this realme haue had, and vsed heretofore, so that hereby you may see that a Forrest may be made by act of parliamēt. And after that, the king had so made the same a Forrest, as aforesaid, he by the same act decorated the māner of Hampton Court, with the name and title of the honour of Hampton Court, and because the King had afforrested the lands of diuers other persons to their pꝛeudice & hinderāce, he of his princely Clemency, to shew his most gracious benignitie towards the owners of the same ground, was contented to couenant with them to allow them certen pꝛiuelleges in recompence thereof, and also to allow them that they might cut downe their woods within the pꝛecints of the same without licēce of the king, or any of his officers, & also to make great fences & hedges about their coꝛne, to keepe the same from the Deere.

As I do take it, a great part of our most ancients forrests in England had there first beginning in this manner, when this realme, at the first being a wildernes ful of great huge woods, because it was not inhabited with people, the same was also full of wild beasts almost of al soꝛts that are commonly

monly knowne in Englad, & after the same began to be inhabited with people, they did daily more & more destroy the woods and great thickets, that were neere vnto the places where they did inhabit, so that still as the land increased & flozished w<sup>th</sup> people, whose nature could not indure the aboudance of Sauage beasts, so cruelly to annoy thē as they then did, they sought by all meanes possible how to destroy such great woods & couerts, as were any way neere vnto their places of habitaciō, therby to driue the wild beasts further frō thē. And so by that means the wild beasts were al driuē to resort to those places, where the woods were left remaining, to make their abode in thē, & so those places, whereas y<sup>e</sup> great huge woods & thickets were left remaining, which then were many, & being full of wild beasts in the Sarons time, they called those places *Paldy* or *Walds*, that is to say Forrests or woods: so that I do gather therby, that the first beginning of forrest in Englad was ppter defectū inhabitantis populi, for want of people to inhabit those vacāt places wherin wild beasts were, & as our Chronicles do make mentiō in the time of the Sarsons, when Edgar a Sarson was K. of this lād, which was in the yere of our Lord 959. he did greatly destroy the wolves & Fores both in Englad & Wales, so y<sup>e</sup> he left but few Wolves nor Fores remaining, for which the Welchmē paid him yerely a certain tribut of woolfeskins, and then, when those & such like rauenous & cruell beasts, as the wolves were, that did destroy both mā & beast, were banished, the residue, that were then remaining, being beasts of great pleasure for the K. & for noble men to hunt & chase, & also dainy meat for the prince & the best sort of men in the realme, the kings of this land began to grow careful for the preservation of them, & therefore they began to priuiledge the woods & places, where those wild beasts were remaining, which was in the great woods y<sup>e</sup> thē were left vndestroyed, so that no man might hurt or destroy them there,

Hollandshed  
in his detci-  
pion of Bri-  
tain pa. 112.  
a. 60.



there, and so those places, where the wild beasts were then remayning, became Forrests. And then all wild Beasts, Birdes, and Fowles, that were *Fera naturæ*, wild by nature, weare the kings onely, in whose ground or land soeuer they were in any place in the Realme, as well those that were out of Forrests, Chases, Parkes and Warrens, as those that were remayning within any of them, so that it was not lawfull for any man to hurt, kill, or take, any wild beast, birde, or fowle, within his owne ground, without being punished for the same, untill that Canutus the Dane, came to be King of this land, which was in the yeere of our Lord, 1018. who, as it seemeth, did appoint such Forrests and Chases, as then were, their limmets and bounds certain, and to the intent to haue his owne Forrests, and other priuiledged places the better preserved from offenders in them, in the first yeere of his raigne, at Winchester he made this Law, which in the Danish tongue doth beginne thus: *Ik will that Ilc one &c.* which in Latin is this, *Volo, vt omnis liber homo pro libito suo habeat venerem siue viridem in planis suis super terras suas, sine Chacea tamen, & deui-cent omnes meam, vbicunq; eam habere voluero.* In English this, I will and graunt that each one shalbe worthie of such venerie as he by Hunting can take eyther in the playnes or in the woods within his owne see or dominion, but each man shal abstaine, from my venerie in euery place, where I will that my beasts shall haue firme peace & quietnes, vpon paine to forfeit as much as a man may forfeit, which law was afterwards confirmed by diuers kings, and in this manner, I do thinke, Forrests did first begin, & thus much for this matter.

Hollandshed  
in his. descri-  
ption of Bri-  
tain pa. 206,  
b. 60. pag.  
208, a. 20.

3 *In what places, Forrests ought to be made.*

**N**OW it hath beene shewed already, how a Forrest is made, it is necessary likewise to shew, in what places,  
Forrests

Forrests were and ought to be made. And for that, it ap-  
 peareth in the Red booke, which remaineth in the Esche-  
 quer, called Liber Rubrus, in these wordes, Non in qui- In Libro ru-  
bro Scaccarij.  
 buslibet locis est Foresta domini Regis, sed in certis, scili-  
 cet in locis Siluestribus, that is, The kings Forrest is not  
 in euery place, but in certain places meete for that purpose,  
 that is to say, in the wooddy countries: Wherein it doth  
 appeare, that Forrestes were alwayes appointed in the  
 wooddy countries where great store of couerts were. And  
 in an other place in the said booke the wordes are these,  
 In singulis comitatibus foresta Regis non est, sed in ne- Ibidem.  
 morosis, vbi ferarum latibula sunt & vberiores pasturæ,  
 The kinges Forrest is not in euery countrie within this  
 Realme, but in the wooddy countries, where the secreat  
 abyding of the wild beastes are, and fruitfull pastures for  
 their feede. And afterwards in an other place in the same  
 booke, it followeth in these wordes, Numquid in singulis Ibidem.  
 comitatibus Foresta Regis est infra Regnum? non, sed in  
 saluosis locis &c. Is the kings Forrest in euery countrie  
 within this Realme? no, but in the wooddy groundes,  
 where the secreat abyding of the wild beastes are, and in  
 pleasant feedinges and lawnds &c. By this it appeareth,  
 that it is incident to euery Forrest, to be aswell replenished  
 with woods, as to haue pleasant feedings and lawnds for  
 the kings Deere. And in an other place in the same booke  
 it is written thus, Foresta est tutaferrarum mansio, non qua- Ibidem.  
 rumlibet, sed tantummodo siluestrium, A Forrest, saith  
 the said booke, is a safe abyding place of wild beastes, not of  
 all maner of wild beastes, but onely of those, that are be-  
 longing to the woodes. By this it appeareth, that For-  
 rests were made chiefly at the first, but for beastes of the  
 woodes, and no wild beastes, are properly beastes of the  
 Forrest, but those that do haunt the woodes: And therefore  
 it followeth of necessity, that Forrests must be made, where  
 there



Carta de Fo-  
resta articulo  
primo.

there are great store of woodes. It doth appeare by Carta de Foresta, in what places Forrests were made, by these wordes, Omnes Foreste, quas Henricus auus noster afforestauit, videantur per bonos & legales homines, Et si boscum aliquem alium, quam suū dominicum afforestauerit ad dampnum illius, cuius boscus ille fuerit, statim deaforestetur, All Forrests, which king Henry our grandfather afforested and made, shall be viewed by good and lawfull men, And if he haue made forrest of any other mans wood, besides his owne demeasne woodes, whereby the owner of the woods hath hurt, then we will that they shall be forthwith disaforested: There the Statute doth speak but onely of the afforesting of the woods of other men, nor of the disaforested of any thing but onely of the woods of other men, And yet there is no doubt, but the meaning of the Statute in the same place is, that all the lands and other grounds, that were before that time newly afforested by the said king Henry the second, should be disaforested, as well as those that were woods. And likewise it doth appeare by the wordes of the same Carta de Foresta articulo tertio, in these wordes, Omnes autem bosci, qui fuerunt afforestati per Regem Richardum auunculum nostrum, vel per Regem Iohannem patrem nostrum, vsque ad primam Coronationem nostram, statim deaforestentur, nisi sit dominicus boscus noster, which is: All woods which were afforested by king Richard our vnckle, or by king John our father, vntill our first Coronation, shalbe forthwith disaforested, vnlesse the same be our owne demeasne woods: In both which places, this word Boscus is still vbled, for, the same Charter purporteth, that all woods, that any of those kings had afforested, should be disaforested, vnlesse they were the kings own demeasne woods, as though neither of those kings had afforested any thing either of their owne grounds or other mens, but woods: Whereby you may gather,

Carta de Fo-  
resta artic. 3.

gather, that for the most part, there was verie seldom any thing afforrested, but only woods or wooddy grounds. And because that in times past woods and great wooddy countries not much inhabited with people were full of wild beasts: therfore this woord Sylua in Latin, being a Wood in English, is commonly taken for a Forrest: as king David in his 50. Psal. and 10. vers. saith, Non accipiam de domo tua virulos, neque de gregibus tuis hircos, quoniam meæ sunt omnes feræ sylvarum, lumenta in montibus & boues, I will take no bullock out of thy house, nor he goats out of the foalds, for all the wild beasts of the Forrest are mine, and so are the cattels vpon a thousand hilles: And in like maner the same woord Sylua in many places, is taken for a Forrest, and so is this woord Saltus, a Wood, taken for Forrest. And in the Sarlon and Celcypke tongue, great and huge woods are called *paldy*, that is to say, woods or Forrests, because woods were forrests. And so hereby we may learne by the signification of the woord, the nature & qualitie of the place in which Forrests were made.

Psalme 50.  
verse 10.  
after Saint  
Hieromes  
translation.  
49.

4 Whereof the same receaueth the name of a Forrest.

**A**lthough that this woord Sylua, a Wood, be often times taken & translated for a Forrest, as in the 104. Psalme of the king and prophet David, verse 20. Posuisti tenebras, & facta est nox, in ipsa pertransibunt omnes bestie sylue, Thou makest darknes, that it may be night, wherein all the wild beastes of the Forrest do moue. And likewise this woord Saltus, a Wood, is often translated for a Forrest: As in the second book of Kings, the second chapter, verse 24. Qui cum respexisset vidit eos, & maledixit eis in nomine Domini, egressique sunt duo viri de Saltu, & lacerauerunt ex eis quadraginta duos pueros, And he turned back and looked on them, and cursed them

In the psalmes  
after S. Hieromes  
translation 103.

In S. Hieromes  
translation 4. book  
of Kings ca. 2.



Budæus in lib.  
2. Philologicæ

Budæus in 2.  
libro de Phi-  
logia.

Ibidem.

in the name of the Lord, and two Beares came out of the Forrest, and tare in peeces two and fortye children of them that mocked *Elisba*. And yet neither this woord Sylua, nor Saltus, are properly Latin woords for a Forrest, but rather for a wood, and are taken and vled for a Forrest, because that a Forrest is a place full of woods, and therfore a good Forrester is called a good Woodman: For, albeit that of late time we vse to say Forresterius a Forrester, yet the auncient wrytters do rather say Saltuarius, a Woodman, which doth proue that a Forrest in the Latin tongue hath his name deriued from the woord Sylua, or Saltus, a Wood, because that wild beastes haue alwaies had their abyding places in woods: but yet it doth not therfore follow that euery wood is a Forrest, although that there be Deere, & other wild beastes in the same, except that the same wood be especially priuiledged by the king for them to rest in a firme peace. And such a wood so priuiledged is called by Budæus in his second booke De Philologia, Sylua sacrosancta, a priuiledged wood for wild beastes to be safe in. And in an other place, he calleth a Forrest Saltus sacrosanctus, a priuiledged wood for wild beastes: so that a wood priuiledged for wild beastes, & a Forrest, are all one, Or, as it were, diuers woords of one signification. Budæus vseth this woord Saltuaria sacrosancta, for a Forrest: for speaking of matters of Hunting, he saith this, in quibus saltibus ferarum greges sacrosancti sunt legum regiarū sanctionibus quos aquarias saltuariasq; dicimus, those woods, in which the herds of wild beastes are priuiledged, euen by the canons of Princes lawes, those we call Forrests, saith he. And hereupon the Latinests haue framed this latin woord, Foresta, for a Forrest, being compounded of those two woords, fera, and Statio, so that Foresta est ferarum Statio, which is, that a Forrest is a safe abyding place for wild beastes. And euen according to the same manner, immitating the Latinests, we

we haue framed this English woozd, a Forrest; being compounded of these two woozds, For, and Rest: And because a Forrest is a safe abyding and priuiledged place for the kings wild beastes for rest, which two woozds (For and Rest) being put together and made one word, is Forrest, or a Forrest, taking his name of the nature of the place, which is priuiledged by the king for his wild beastes, to haue their safe abyding in for rest. Budzus in his Treatise of Hunting in French, vseth to say vne Forrest, for a Forrest, little differing from our English woozd, Forrest, or from the Latin woozd Foresta.

Budzus in his  
Treatise of  
Hunting in  
Fréch pa. 276

### 5 The Antiquitie of Forrests.

**T**he Antiquitie of Forrests must needes be very great, for they are so auncient, that there is no certein beginning of them that can be shewed, howbeit there may be many testimonies to proue, that Forrests haue ben of long time, yea many hundzeth yeeres, but yet in what place of the world, or in what time they did first begin, no man can certainly tell. We read in the 50. Psalme of Dauid, verse 10. whereas Dauid speaking in the person of God saith, I will take no bullock out of thy house, nor he goats out of the foalds, for all the beastes of the forrests are mine, and so are the cattels vpon a thousand hilles: Hereby we may gather, that there were Forrests of wild beastes in the Prophet Dauids time. And likewise in the 131. Psalme, verse the 6. the woozds are these: Lo, we heard of it at Ephrates, and found it in the fieldes of the Forrests: By this we may likewise gather, that there were Forrests in the time of king Dauid. Polidor Virgill in his booke de Inuentoribus rerum, saith that Forrestes, Parkes, and Warrens were first made by Fuluius Herpinus, which was befoze the comming of Christ. We read likewise in

50. Psalme  
verse 10.

Psalme 131.  
verse 6.

Pollidor Vir.  
de Inuentori-  
bus rerum.

Crisp. French  
chron. fo. 192.



Hollenshed in  
his description  
of Brita-  
nie pag. 208.  
a. 20.

the French Cronicle of Iohn Crispin, that Philip of Macedonia, had Forrests to hunt in, for places of recreation and delight: so then if Forrestes were in his time, they were before the coming of Christ. We read that Canutus the Dane, and king of this land, made certain Canons or Lawes for Forrestes in the yeere of our Lord 1016, but Forrestes were heer in England before his time.

6 What benefit doth grow to the king by the preservation of Forrestes.

**I**f a Forrest of the Kings be carefully and diligently looked vnto, kept, and preserved, as it ought to be, by good and profitable officers, which haue the charge and care thereof committed vnto them, then there doth grow vnto the King by a Forrest, especially these two benefits, that is to say: First the plentie and increase of Deare, as well for the prouision of Venison for the kinges court, as also for the princely delight and pleasure of the King to hunt for his recreation, when his grace is wearied with the burden of cares in matters of common weale: Secondly, the great woodes and tymber trees aswell of his subiects, as of his owne demeasne woods being within the forrests, are most especially preserved thereby, to be in readines when the King shall haue neede of them, which oherwise would be cut downe and destroyed: for, the slender and negligent execution of the Forrest Lawes hath not onely been the decay and distruction of the Deare almost in all places wythin this Realme in Forrestes, but also of great Wood and Tymber, the want whereof, aswell at this present time, as in time to come, shall appeare in the Hauie of this Realme. And furthermore, the want of the execution of the Forrest Lawes doth breed the igno-

ignorance of them so much, as it is at this day: For, those Lawes, now, are not onely out of vse in most places, but also growen into contempt with many inhabitants in Forrestes. I do not speak this to that end, that I would haue Forrest Lawes rigorously executed vpon offenders in Forrestes, but to haue them so executed, that Forrests may be still knowen for Forrestes, and the game preserued for her Maiestie: for oherwise, it were better to disafforest them altogether, and then her Maiestie shall be discharged of the great fees that are yeerely payed to Officers of the Forrest, out of her Maiesties Court of Eschequer.

## Chap. iij.

- 1 *Who may make a Forrest.*
- 2 *Who may haue a Forrest.*
- 3 *How a Forrest may be graunted by the King to a subiect.*
- 4 *That a Forrest, graunted in some sort to a subiect by the King, shall be but a Chuse in the handes of the subiect.*

## I Who may make a Forrest.



So it hath been alwayes holden for a generall opinion, amongst the learned in the Lawes of this Realme, that the King onely, (de Iure gentium, or, as they say, by the Common Law,) may make a Forrest in all woodes,

or

Bracon Lib.  
2. Cap. 24.  
Vide Master  
Hesketts rea-  
ding fo. 8.  
Malt. Tri. harn  
fol. 5.



or places wheresoeuer he will appoint: so likewise, it is as generall an opinion of the contrarie part, that no other person or persons whatsoeuer, can make a Forrest, but the king onely, and such as are especially aucthorized by him so to do, because the king hath that Soueraigntie and royall prerogative reserued to him selfe onely.

2 Who may haue a Forrest.

In the Duchy  
Court.

**A**nd whereas it is a common opinion of some, rather then of any good ground or aucthoritie, that no subiect of this Realme may be seised of a Forrest, (for as some say) that fraunchise which is a Forrest in the hands of the king, is properly but a Chase in any subiectes handes. Yet it is to be shewed by the Records of the Court of the Duchy of Lancaster, that the Earle of Lancaster, in the time of king Edward the second, and king Edward the third, had a Forrest in the Countie of Lancaster, and in the Countie of Dorke, in the which the said Earle did execute the Forrest Lawes, as largely as euer any king of this Realme did, and euen at this day there are no Records, so much followed in the executing of the Forrest Lawes wythin the Queenes Maiesties Forrestes, as those, that were executed by the said Earle in his Forrestes: And therefore, whosoever will be learned in the Forrest Lawes, must diligently studie the Assises of the Forrest of Pickring and Lancaster: In which Assises there are plentifull Examples and presidents of matters alredie adiudged and tried, yea almost for euery matter that can be spoken of or come in question touching Forrestes. And therefore the Assises or Iters of Pickring and Lancaster are, as it were, the bookes of peeres and Termes, vnto the Forrest Lawes,  
euen

even as the bookes of peeres, and termes, that are printed, are vnto those that studie the Common lawes of this Realme. It doth appeare by the Records remaining in the Duchie of Lancaster, that in anno decimo of Edw. 3. the Earle of Lancaster, being a subiect, and Lord and owner of a Forrest, did giue licence vnto an other to make and inclose a Parke within the meetes of the same Forrest, to haue and to hold the same Parke inclosed, with all such Tenisons, as the grauntee shall put therein, to him and to his heires for euer: And this was admitted and adjudged for a good licence, in a claime made by the grauntee, so that thereby it doth appeare, that a subiect may be owner of a Forrest, and that a Forrest may be, and remaine a Forrest still, being in the handes of a subiect. It doth also appeare by the said Records, that the Earle of Lancaster, beyng tenaunt in taylor of the honoz and Forrest of Lancaster, did by his deed graunt vnto J. W. licence to make a Parke within the Forrest &c. and after the said Earle died, it appeared that this deed could not binde his heire &c. And therefore J. W. did make a fine of tenne pounds with the next heire to the intent that his Parke might continew, Anno decimo Edw. 3. fol. 69. which doth proue, that a subiect may be Lord and owner of a Forrest.

In Itin Lanc-  
casti ann. 10.  
E. 3. fo. 64.

In Itin Lanc-  
casti ann. 10.  
E. 3. fol. 69.

And also it doth appeare by the recitall of the Statute of 22. of Edw. 4. Cap. 7. which Statute was made for the prouision of such as had woods within Forrests, that they might lawfully inclose and fence their woods beyng cut downe within Forrests, which Statute hath relation aswell to those that haue Woods within the Kings Forrests, as to those that haue woods within the Forrests of other men, by expresse wordes, which doth proue, that a subiect may be owner of a Forrest and also haue a Forrest.

The statut of  
22. E. 4. ca. 7.

¶

And



26. assisarum  
placito 60.

And it doth appeare by the Case of the Duke of Lancaster, in An. 26. E. 3. that king H. the 3. being seased of the honoꝝ of Pickering, vnto which a Forrest was then appendāt, did giue & graunt the said honoꝝ of Pickering, Cum omnibus suis pertinentijs, vnto Edmond Earle of Lancaster, in fee, & by that graunt of the honoꝝ, Cum omnibus suis pertinentijs, it was their Iudged, that the whole royaltie of the Forrest did passe vnto the said Earle of Lancaster: by this it is proued, that a subiect may be Lord & owner of a Forrest.

Hillar. 42. E.  
3. fo. 2. p. 8.

And it doth appeare by the Case in 42. E. 3. that a forrest, being a Forrest in the hands of the King, may be graunted by the king to a subiect by the name of a Forrest, and yet the same shalbe a Forrest still in the hands of the grauntee being a subiect, which doth proue that a subiect may be owner of a Forrest.

An. 27. H. 8.  
cap. 7.

And also in Anno 27. of king Henry the eight, an act of Parliament was made for the reformation of diuers grievous disorders, exactions and oppressions, that then were vsed and exacted vpon the Kings subiects, by colour of the Forrest lawes in Wales, aswell within such Forrests, as were the inheritance of the king, as in other Forrests, whereof, Lords, and other meaner men were owners, whereby it doth appeare that a Subiect may be owner of a Forrest. And according to the same, Bracton in his second booke and chapter 24. De libertatibus, speaking of the Priuiledges of the King, and what Priuiledges the King may graunt, hath these wordes, Ea vero, quæ dicuntur priuilegia, licet pertineant ad coronam, tamen à Corona seperari possunt, & ad priuatas personas transferri, sed de gratia ipsius regis speciali, Those thinges which are called Priuiledges, although that they do belong vnto the Crowne, yet notwithstanding they may be seperated from the Crowne, and assigned to

Bracton, libr.  
2. cap. 24.

pri-

private persons, but that is of the kings especiall fauour and grace, saith he, which as it doth there appeare, is vnderstood of Forrests and such like things. And so, to conclude, there is no doubt, but that a Noble man, or, a common person, may haue a Forrest by especiall graunt from the king or Prince, vnder the great seale of England, as the Duke of Northfolke in times past had: And also the Lord of Burgaueney had a Forrest in Suller, called the Forrest of saint Leonards. Also it doth appeare, that the Duke of Buckingham, had diuers Forrests, as the Forrests of Brecknockhay and Causellay, and others, which notwithstanding that they were in their hands being subiects, yet they were Forrests still, and of the nature of Forrests, as it doth appeare, in that they did punish the offenders in those Forrests, by the Lawes of the Forrest. And there are now euen at this day, some Noble men within this land, that haue Forrests of their owne by the graunt of the King, made to them or some of their Auncesters, and if any offenders be found trespassing in any of those places, that are such Forrests, then they shalbe punished for the same offence according to the Lawes of the Forrest, and according to the quantitie of their trespassse.

Dyer fol. 169  
Dñs North  
habet Fore-  
stas de Wey-  
bridge &  
Sapley in fee.

3 How a Forrest may be graunted by the  
King to a Subiect.

**H**ow, and in what manner, a Forrest may be graunted by the King to a subiect, Master Treherne, in his Reading of the Forrest Lawes, doth partly declare, where he saith, that if the king be sealed of a Forrest, and by his letters Patents vnder the great Seale of England, he doth graunt the same Forrest by the name of a Forrest vnto a subiect, Habendū sibi & heredib<sup>9</sup> suis, cum omnibus incidentibus appendicijs & pertinentijs, there the grauntēe

M. Treherne  
fol. 5.  
M. Heskett f. 7



Ibidem.

grauntee of the king, or, his heires, shall haue the same, as a Forrest by that graunt, and all Officers, that do belong vnto the Forrest, and that then were there before, a Justice in Eyre of the same Forrest to determine the Trespases there done onely excepted. But saith M. Heskett and Master Treherne, he, that is such a grauntee of a Forrest, may hold a Court of attachments euery forthe dayes, and also a Court of Swannimote, in such sorte as the law doth appoint the same to be kept: But if he will holde a Court of Justice seate, to punishe such as are presented in those Courts for trespases done in the same Forrest, then such a grauntee must procure a speciall Commission from the king in that behalfe, vnder the great seale of England, directed to certaine persons, authorizing them to hold plea of al Trespases done in the same Forrest, and to heare and determine the same: For, although that such a grauntee, by his graunt may haue the same as a Forrest, yet he cannot appoint a Justice in Eyre, himselfe, to determine such trespases as are done there, except the king had graunted vnto him by especiall words, *Iura Regalia*, as the Earle of Lancaster had in Edward the seconds time for his Forrests.

26. assisarum  
placito 60.

And it seemeth to my vnderstanding by the said case of 26. E. 3. that things incident and appurtenant to a Forrest, may passe by the graunt of a Forrest Cum pertinentijs, aswell as, by the graunt of an Honor Cum pertinentijs, the royall franchises of a Forrest may passe.

But it seemeth by there opinions also, that if the King be seised of a Forrest, and by his letters pattents vnder the great seale of England, he doth graunt vnto a subiect, the same Forrest, Cum omnibus suis incidentibus, appendicijs, & pertinentijs, and also further by speciall wordes, that the grauntee shall haue full power and auctoritie, to ordaine and appoint a Justice or certaine Justices, to hold  
plea

plea of all matters concerning the same Forrests, and to heare and determine all trespasses and offences, that shalbe done within the same, then such a grauntee shal not only haue the same as a Forrest, but he hath also by that grāt Iura regalia, that is to say, a kingly power in that behalfe, for as much as he may now by that graunt hold a Justice seate for the same Forrest, and appoint Justices to heare and determine the trespasses of the Forrest, and punish the offenders for the same. It seemeth, that diuers Abbots and Bishops, heretofore haue had Iura regalia in many things, as the Abbot of S. Albons, and the Abbot of Glastonburie, vide Secretum domini fol. 78.

Vide Librum  
intraionis in  
titulo Fran-  
chises 1. fol.  
358.

- 4 That a Forrest, graunted in some sort to a subiect by the king, shalbe but a Chase in the hands of the subiect.

**I**t is said by Sir William Thorpe, Lord chiefe Justice of England, in Anno 43. of E. 3. that if the king do purchase a mannor, vnto which mannor a Franches royall, as a Forrest or such like, is regardant, and afterwards the king doth giue the same manner vnto an other, Simul cum libertatibus ad illud spectantibus: by that graūt, no Franches royall, nor liberties, do passe: for, by the purchase of the manner by the king, the Franches royall and all liberties were annexed vnto the Crowne, but it is contrarie, if the king do giue the same manner, Cum libertate ad illud spectante, tempore, quo manerium fuit in manibus feoffatoris, for by the purchase of the manner by the King, the Franches royall is extinguished, and cannot passe from the king by the grant of the manner, without special words that do amount to a new graunt.

43. assisarum  
placito 10.

And further, it seemeth by some opinions, that if the king be seised of a Forrest, and by his letters patents vnder

M. Treherne  
fol. 6.  
M. Hesket f. 7



the great Seale, he doth graunt the same vnto a subiect, by the name of a Forrest, Cum omnibus suis parcellis, yet the same shalbe but a Chase in the handes of the grauntee, for they say, that by that graunt, the grauntee cannot hold any Court of Attachments nor Swanymote, and therefore the same shall be but a Chase in the handes of the grauntee, for the same cannot be a Forrest, vnlesse there be incident vnto it, a Court of Attachments, a Swanymote, and also Verderers, Regarders, and other like officers.

Vide 42. E. 3.  
fol. 2. placit. o  
8.

Hillarii 42.  
E. 3. f. 2. p. 8.

And it doth appeare by the said Case of 42. E. 3. that a Forrest, being a Forrest in the hands of the King, may in some sort be graunted by the name of a Forrest vnto a subiect, and yet the same shalbe but a Chase in the hands of the grauntee.

Dier fo. 169.  
placit. o 1.

It doth appeare in termino Michaelis An. 1. & 2. reginæ Elizab. that king H. the 8. by his letters patents, dated in the 33. yeere of his raigne, Ex certa Sciētia, & mero motu, suis, did giue, grant, & to ferme let, vnto S. Richard Cromwell knight, Forestas suas de Weybridge & Sapley, in the County of Huntington, Habendum sibi, cum suis partibus, membris, parcellis, & pertinentijs vniuersis, for the terme of lxxx. yeares, paying for the same, to the King, sixe pounds, viii. s. iiii. d by the yeere &c. with this clause, Scilicet, & prædictus Richardus Cromwel, executores, & assigni sui, custodient, habebunt, & manutenebunt in Forestis prædictis, de tempore in tempus, durante termino prædicto, centū damas, & easdem, seu alias cōsimiles, in numero, in prædictis Forestis, in fine termini prædicti dimittent præfato regi heredibus & successoribus suis: without any other reservation of the game: And now the Lord North, which hath the fee simple by graunt from the King, will take the game, and giue warrants there, and it was there thought by the opinion of the most part of the Iustices and Seriants

Seriants of both the two houses, and the Attorney of the King, that he can not do so, for that all the game was included in that word and name of Forrest, and the hundredth Deere are not reserved to be killed, nor any of them, for then it is not possible for the Lessee to performe his covenant, vt supra, but the same is reserved onely for the maintenance of the game and Forrest.

It is thought that the grauntee Sir Richard Cromwell, shall haue the same as a Forrest by that graunt, and that he may hold a Court of Attachments, and Swany-mote Court, but no Justice seate, without a special Comission for that purpose, granted from the King, so that if any man shall commit any trespassse in the same Forrest, the grauntee may punish them according to the Forrest lawes, but if the same were but a Chase, he could not so do, but were forced to bring his action of trespass at the Common law, *Quare Chascam suam fregit*, or els, to indict the offenders for a trespass done in the same: And so you may see, that a Forrest granted by the king to a subiect, by his letters patents vnder the great seale, by the name of a Forrest, in some sort shalbe a Forrest still in the hands of the grauntee being but a subiect.

It may be gathered by the said Case of my Lord Dier, in 1. and 2. of Queene Elizabeth, in the graunt made by the King of the said Forrests of Weybridge & Sapley unto Sir Richard Cromwell, that if the king had graunted *Forestas suas de Waybridge & Sapley in Com Huntingdon, habendum Richardo Cromwell &c.* Leauing out these wordes, *Cum suis partibus, membris, parcellis, & pertinentijs vniuersis*, although that the residew of the same graunt had beene as it is there, and the whole covenant for the mainteyning and keeping of so many Deere in number in those two Forrests by the grauntee S. Richard Cromwel, yet the, the grauntee should haue had those two Forrests,

An. 1. & 2. Elizabeth, Dyer fol. 169. b. *placito* 1.



but as two Franck chases, and not as Forrests, for there it is clearely holden, that by the worde and name of Forrest in that graunt, all the Deere and game are included, but nothing els of a Forrest: And therefore, if the King be seised in fee of the royall franchises of a Forrest, and by his letters patents doth graunt the same by the name of a Forrest unto a subiect, although that by that worde and name of a Forrest, all the Deere and game in it are included, yet if there be no farther wordes included in that graunt, that may enable the grauntee to keepe and hold the Courts of Attachments and Swanymote, which are incident to euery Forrest, then the grauntee shall haue the same Forrest so graunted by the name of a Forrest, but as a Franck chase, and not otherwise: For ouer and besides the word and name of Forrest, the grauntee must haue wordes, that may enable him to hold and keepe those Courts, that are incident to a Forrest, or els the same shall be but a Franck chase onely, note the difference.

## Chap. iiii.

- 1 Which are beasts of Forrest, or, beasts of venerie.
- 2 Which are beasts of Chase.
- 3 Which are beasts and Foules of Warren.
- 4 The difference betweene the beasts of the Forrest, and the beasts of Chase.
- 5 Of their seuerall proper names, seasons, degrees, and ages.
- 6 Of the apt and meete termes of Hunting, appertaining both to beasts of venerie and Chase.
- 7 Of the antiquitie of Hunting, and Chasing of wilde beasts.

1 Which

I Which are beasts of Forrest, or, beasts  
of venerie.



The old written booke, called Anti-  
quitas Britania, which was written  
before the Conquest, saith, that there  
be five wild beasts of venerie, that  
are called beasts of Forrest, and  
there they are especially set downe  
to be these, the Hart, the Hynde,  
the Hare, the Boare, and the Wolfe.

Antiquitas  
Britaniae f. 43

Hollinshed in his description of England saith, That the  
beasts of venerie or Forrest, are these, the Hart, the Hynd,  
the Hare, the Boare, and the Wolfe: and euen according to  
the same, the auncient booke of S. Albons, written by a  
Monke, of Hunting and Hauking, saith, that those fore-  
said five beasts by name, are the beasts of the Forrest or of  
venerie, and none other: and old Sir Tristram in his wor-  
thie treatise of Hunting saith, that the Hart, the Hynd, the  
Hare, the Boare, and the Wolfe, they onely are the beasts  
of Forrest, which the old Forresters or Woodmen were  
woont to call beasts of venerie. Also Budæus in his second  
booke De Philologia, treating there of the nature of diuers  
wild beasts, saith, that the Hart, the Hynde, the Hare, the  
Boare, and the Wolfe, Semper Forestæ & veneris habentur  
bestiæ, these, saith he, are alwaies accompted beasts of ve-  
nery and beasts of Forrest, with this agreeth M. Sergiant  
Fleetwood in his brieife collection of certen notes of For-  
rest Lawes, with this agreeth Master Hesketh in his lear-  
ned reading upon Carta de Foresta, so that by these autho-  
rities we may plainly see, what wild beasts, are, and haue  
beene accompted properly beasts of Forrest, or beasts of  
venerie.

Hollinsh. in  
his descriptio  
of Englad, pa.  
206. b. 30.

The booke of  
S. Albons f. 30.

Sir Tristram in  
his treatise of  
Hunting.

Budæus in li-  
br. 2. de phi-  
lologia.

M. Sergiant  
Fleetwood  
fol. 3.

M. Barthol-  
meu Hesketh  
in his reading  
fol. 20.

And



And whereas they say, the Hart, and the Hind, being both beasts of one kinde, and yet they doe accompt them for two severall beasts, it seemeth y<sup>e</sup> that is, because, that, although they be both of one kinde, yet they are beasts of severall seasons, for the hart hath his season in Summer, and the season of the hinde doth begin when the season of the hart doth end. And whereas they say, the hart, they doe thereby vnderstand, as wel the Stagge, Haggard, and euery other male deare of that sort, as the hart that is a hart indeede: And whereas they doe accompt the wolfe for a wilde beast of the Forrest, and yet we haue not any in England, it is to be vnderstood, that, although here are no wolves in England at this day, yet here haue beene plenty of them, and they haue beene accompted beasts of venery or Forrests, and kings and princes haue greatly delighted in the hunting of them. Wolves were almost all destroyed by king Edgar, so that when Canutus the Dane, came to be king here in England, foxes and wolves were greatly in contempt amongst the greatest sort of people, for the harme that they had done, and therfore Canutus in his Forrest Lawes, that he did set downe, he did not accompt the wolfe for a beast of the Forrest, nor a foxe for a beast of the Chase, as it doth appeare in his charter of the Forrest Canon 27. Where he saith, vulpes & lupi nec forestæ nec veneris habentur, & proinde eorum interfectio nulli emendationi subiacet, si tamen infra limites occiduntur, fractio sit Regalis Chasæ, & mitius emendetur. Foxes nor wolves are not accompted beastes of venerie nor of Forrest, and therfore the killing of them shall not yeeld any Recompence, and yet for all that, if they bee killed within the lymits and boundes of the Forrest, then the killing of them is a breach of the kings Royal free Chase, and for that the offender shall yeelde a recompence: so that, although Canutus did not accompt the wolfe for a beast of the Forrest, nor the foxe for a beast of the Chase,  
yet

Canutus Ca-  
non 27.

yet it seemeth by this, that they are priuiledged in the forrest, and therefore no man may hunt or kill them. And by this you may note, that euery forrest doth containe a Chase within it, which Chase is called Chase Royall or a Royall Chase, But yet, although that Canutus did no more regard wolves and fores, because they were beastes of Rauin, and harmefull to the people, and common weale, yet all the auncient woodmen and forresters doe accompt the wolfe a beast of venery and Forrest, And the fore a beast of Chase, for the Estimation that Kinges and Princes haue had of them, and for the noble pastime in the hunting and chaling of them.

A Hart is called Cervus in Latine, and Isidorus in his Isidorus l. 12. 12. booke saith, that he is called Cervus of the Greeke worde Cereston, which is a horne, he is accompted of diuers wryters to be the most stateliest beast in his gate, that doth goe vpon the earth, for he doth cary a maiesty in his countenance and gate. Bartholomeus de pro, rieratibus rerum fol. 357.

Budens in his 2. booke de Philologia wryteth this of harts, *Exuias illas Anniuersarias, quib<sup>9</sup> orbat, latent cerui, quasi honore atque insigni amisso, nō Cornua, vt Latini; sed caput, quasi decus ferinum appellant venatores*, the hartes hauing mewed their heads, being disarmed, as though their honours and insignes were lost, they hide themselves in coverts: forresters or hunters do call that, the perely mewing of their heads, as the beauty of their wildnesse, not of their hornes, as the Latines do call it. Budæus 2. lib. philologia.

## 2 Which are beasts of Chase.

**T**he aforesaid wrytten booke, called *Antiquitas Britannia*, saith that there are 5. wilde beasts, that are called beasts of Chase, the Buck, the Doe, the Fox, the Martron, and the Roc. Hollinshed in his description of England saith, Antiquitas Britannia fol. 43.



Holléshed in  
his descrip-  
tion of Engl.  
pa.206.b.30  
The booke of  
saunt Albons  
fo.30.

S. Tristram in  
his treatise of  
Hunting.  
Budæus in 2.  
libro Philo-  
logiz.  
M. Sergiant  
Fleetwood.

saith, that the Bucke, the Doo, the Foxe, the Martron, and the Roo, are onely the beasts of Chase: The booke of S. Albons saith, that there are certen beasts, which are called beasts of Chase, which do differ from the beasts of the Forrest, which beasts of the Chase, saith he, are these, the Buck, the Doo, the Foxe, the Martron, and the Roo: And with all these, old Sir Tristram, an auncient Forrester, in his worthe treatise of Hunting doth agree: And with this agreeth Budæus in his booke De Philologia, and last of al, M. Ser-  
iant Fleetwood in his brieft collection of notes of Forrest Lawes, doth affirme that the beasts of Chase are onely, the Bucke, the Doo, the Foxe, the Martron, and the Roo.

### 3 Which are beasts and foules of Warren.

In Registro  
breuii fo.93.  
b. in breui de  
transgressionē.

**T**he beasts and foules of Warren are these, the Hare, the Connie, the Pheasant, and the Partridge, and none other are accompted beasts nor foules of warren, as it doth appeare in the Register of wryts, in an action of Trespas, Quare vi & armis in liberam warennam ipsius A. apud B. intrauit, & in ea sine licentia & voluntate sua fugauit Lepores, Cuniculos, Pheasantos & perdices cepit & asportauit &c. by which we may learne, that there are onely two beasts of warren, the Hare, and the Cunny, and but two foules of warren, the Pheasant, and the Partridge. The Register is full of such like presidents, and in euery writ of trespassse in the Register, brought against any offenders in a free warren, all the beasts and foules, which are beasts and foules of warren, are there named in this sort, Et Lepores, Cuniculos, Pheasantos & perdices, cepit & asportauit. And with this agreeth the booke of Entres, in an action of Trespasse brought against a Hunter in a mā's warren, where the words are, Quare vi & armis liberam warrennam ipsius I. A. apud N. intrauit & sine licentia & voluntate

Vide ibidem  
fol.96.b.  
In libro in-  
tracionis fol.  
585. Intitulo  
Trāis in Hun-  
ting. 2.3.  
M.3.H.6. fo.  
12. b. 15.

voluntate sua fugauit, & lepores, cuniculos, Phasianos, & p'dices, cepit & asportauit &c. Wherby it doth manifestly appeare, which are beasts of warren & foules of warren: Also Maister Fitzharbert in his Natura breuium fol. 86. & 87. where he, shewing a difference betweene hunting in a mans close or soile, and in a warren, setteth downe the beasts and foules of warren to be, the Hare, the Cony, the Pheasant, and the Partridge, And if any man haue the libertie of a free warren, by charter or grant from the king, the wordes of the grant are vsually, quod ipse, & heredes sui, habeant liberam warrennam in omnibus dominicis terris suis in N. in comitatu B. dum tamen fera illa non sint infra metas foresta nostra, ita quod nullus intret terras illas, ad fugandum in eis, vel aliquod capiend', quod ad warrennam pertinet, So that, euery charter of a free warren were altogether vncertaine by those wordes, quod ad warrennam pertinet, if it were not certainly knowne, what were beastes and foules of warren, and therefore the Register, as a perfect example for euery man to frame a writ of trespassse by, for hunting in a warren doth auerre the trespassse by the offender in the warren, in taking or d'riuing away of those beastes and foules, that are beastes and foules of warren. And it seemeth by the opinion of Budæus, that the beasts and foules of warren are such, as may be taken, with long winged haukes, or hauks of pray, which are, the Hare, the Cony, the Pheasant, and the Partridge: For a warren, is but a place priuiledged for beastes, and foules of warren onely, and for no more, and thus much concerning beastes, and foules of warren.

H. 34. H. 6.  
fo. 28. a. 9.  
p. 34. H. 6. fo.  
43. a. 3.  
Fitz. nat. br.  
fol. 86. 87.

Secretum domini abbatis  
Glaston 81. b.

Budæus in 2.  
lib. philologiz.

4 The difference betweene the beasts of the Forrest, and the beasts of Chase.

**A**s there is a great difference betweene a Forrest, and a Chase, so there is said to be as great difference betweene



## A Treatise of      Cap.iiij.

twene the beastes of the Forrest, and the beastes of the Chase: the beasts of the Forrest, they are, tantum Siluestres: and the beasts of the Chase are, Campestres tantum. For, the beasts of the Forrest doe make their abode, all the day time, in the great couerts & secret places in the woods: And in the night season, they doe repaire into the landes, meadowes, pastures, and pleasant feedings, for their foode and reliefe. And therefore they are called Siluestres, that is to say, beastes of the wood, or beastes that doe haunt the woods, more then the plaines, according as the prophet Dauid saith in his 104. Psalm. Thou makest darkenesse that it may be night, wherein all the beastes of the Forrest doe moue, The Lyons roaring after their praye, doe seeke their meate at God, The sonne ariseth and they get them away together, and lay them downe in their dens. And so the beastes of the Forrest are onely those, that doe keepe the couerts, which are called beastes of venerie. And the beastes of Chase, they doe make their abode, all the day time, in the fieldes, and vpon the hils, or high mountaines, where they may see round about them a farre of, who doth stirre or come neare them: and, in the night season, when euery body is at rest, and all is quiet, then they doe repaire vnto the cozne fieldes and vallies belowe, where the landes, meadowes, and pleasant feedings, are for their foode and reliefe, and therefore they are called Campestres, that is to say, beastes of the fielde, or beastes that doe haunt the fieldes, more then the woods.

It doth appeare by the prophet Dauid in the 50. Psalm, that as there are some wilde beastes, that doe keepe the woods and couerts: so there are some wilde beastes, that doe keepe the fieldes, the mountaines, and the hils, which are the beasts of the Chase, for the Prophet Dauid saith, I will take no bullocke out of thy house nor he goates out of thy fouldes, for all the beasts of the Forrest are mine, and so

M. Heske. fo.  
8. & 11.  
M. Trecherno  
fo. 9.

Psalm. 104.  
verse 20.

M. Hesket in  
his reading  
fo. 11.

Psalm. 50. vers.  
9, 10.

so are the cattell vppon a thousand hils: And againe hee saith, I knowe all the foules vpon the mountaines, and the wilde beastes of the fieldes are mine, And so there the Prophet maketh a difference betweene the beastes of the Forrest, and the wilde beastes of the fiede: And Budæus saith, that those wilde beasts, that doe haunt the fieldes and the hils, which are the beasts aforesaid, they saith he, are the beasts of Chase.

*Psal. 50. ver. 11.*

*Budæus in 2. libro de Philologia.*

- 5 Of their seuerall proper names, seasons, degrees, and ages.

**A**nd now here it is necessarie to speake something of the proper names of the foresaid beastes of Forrest, Chase, and Warren, to the end that men may know how to call them, according as they are called and termed by the auncient forresters and woodmen. And because of all other beastes of venery, the Hart is the most noblest, and the most worthiest beast, and taketh the first place, I wil first begin and speake of the termes belonging to him: And therefore you shall vnderstand, that at,

The first yere, you shall call him, a Hinde calfe, or, a calfe.

*Sir Tristran, The booke of S. Albons.*

The second yere, you shall call him, a Broket.

The third yere, you shall call him, a Spayad.

The fourth yere, you shall call him, a Staggerd.

The fift yere, you shall call him, a Stagge.

*Budæus.*

The sixt yere, you shall call him, a Hart.

But here note, that some auncient wryters doe report, that in times past, the forresters and woodmen, were wont to call him a Stagge at the fourth yere, and not a Staggerd, as we now doe: And also at the fift yere they did call him a great Stagge: And so they were wont to giue him a difference by this word, Stagge and great Stag: And whereas some doe thinke that a Stagge, of what age soeuer he be, shall



## A Treatise of      Cap.iiij.

Sir Tristram.

Budæus in 2.  
libro de phi-  
lologia.

shall not bee called a Hart, vntill the King or Queene doe hunt him, that is not so, for they are all greatly deceiued that so doe thinke, for, after the first yeere of his age, he shall no moze be called a Stagge, but a Hart, And, as Budæus saith, at sixe yeares of age, then a Hart you shall him call, so that, if a Stagge come to be sixe yeares of age, then he is a Hart: But if the King or Queene doe hunt or chase him, and he escape away aliue, then after such a hunting or chasing, he is called a Hart Royall. But if the King or Queene doe hunt or chase a Hart in the Forrest, which by chasing is driuen out of the Forrest, so farre, that he is not likely to returne to the Forrest againe of himselfe, and the King giueth him ouer, either for y he leaueth off from hunting, as being weary, or, for that he cannot recouer him, And because that such a Hart hath shewed the king pastime for his delight, And, is also, as Budæus saith, Eximius Cervus, a goodly Hart, and therefore the king would haue him preserued to returne to the Forrest againe, He doeth cause open proclamation to be made in all Townes and Villages neere vnto the place, where the same Hart is so remaining, that no maner of person or persons shall kill, hurt, hunt, or chase him, but that he shall safely returne to such a Forrest againe, from whence he came, and for that cause the King doeth appoint certaine Forresters to harbor the said Hart there, for a while, and by degrees to bring him into the Forrest againe, And then euer after, such a Hart is called a Hart Royall proclaymed: so note, that there are three sortes of Hartes.

A Hart.

A Hart Royall.

A Hart Royall proclaymed.

I haue seene diuers auncient Recordes remaining in Nottingham Castle in the Tower, wherein the Court is vsually kept for Peuerill see, which are in a maner defaced  
and

and hardly to be read by bad keeping of them, out of which Recordes, I did take out certein notes concerning Forrest matters, amongst which notes I found one: That in anno domini 1194. king Richard the first, being a hunting in the Forrest of Sherwood, did chase a Hart out of the Forrest of Sherwood into Barnesdale in Dorkshire, and because he could not there recouer him, he made proclamation at Tickill in Dorkshire, and at diuers other places there, that no person should kill, hurt, or chase, the said Hart, but that he might safely retozne into the forrest againe, which Hart was afterwards called a Hart royall proclaimed: By this I do gather, that a Hart is not proclaimed a Hart, but when he is hunted out of some Forrest or chase, by the king, and then, because the king hath hunted him out of the Forrest, and cannot recouer him, but is forced to leaue him in danger to be hunted and killed there by others, then the king doth proclaim him a peace where he is, which is but onely for his safe retozne to the Forrest againe, for otherwise I do see no reason, why he should haue a peace proclaimed being within the Forrest, for there he is in a Sanctuarie of peace. And it seemeth by the case in 21. of king Henry the seventh, where a man was indicted for killing of a Hart proclaimed, which Indictment was challenged, for that it was not shewed, where, nor in what place, the proclamation was made, that the same Hart was proclaimed a Hart by some such meanes, and in some such solempne maner, as the other Hart aforesaid was, And then such a Hart, so proclaimed, is a Hart royall proclaimed.

21. H. 7. fo. 30  
pla. 7.  
12. H. 8. fo. 9.  
pl. 2. fo. 9. 10  
per Brooke.  
7. H. 6. fo. 36  
pla. 41.

The auncient Charter of the Forrest of Canutus, doth call the Hart, *Fera regalis*, a royall wilde beast, or a Hart roiall.

Canutus Canon 24.

As for the Hynd, there needeth little to be said of her, onely this: That a Hynd is called, at,

The Book of Saint Albons fol. 30.

F

The



The first yeere, a Calfe.

The second yeere, a Brokets sister.

The third yeere, she is a Hynd.

Of some old Foxresters, the Hare, is called the king of all beastes of Uenerie, and in hunting maketh best sport, and delight, there is small varietie of tearmes for the Hare, moze then this: A Hare is called

The first yeere, a Leueret.

The second yeere, a Hare.

The third yeere, a great Hare.

The Book of  
Saint Albons  
fol. 30.

Amongest the beastes of Uenerie, the fowerth, and next in degree vnto the Hare, is the Wild Boare, and he is called and tearmed after this manner:

The first yeere he is, a Pigg of the sounder.

The second yeere he is, a Hogge.

The third yeere he is, a Hogstearc.

The fowerth yeere he is, a Boare:

for then after the fowerth yeere, if not before, he departeth from the Sounder, and then you shal call him, a Singler, or rather, Sanglier.

The last and fifth beast of Uenerie or of Foxrest, is the Wolfe, which, because we haue none heer in England, nor I think we neuer shall haue in any of our Foxrests, I will not speak any thing of their different names.

Sir Tristram,

Concerning beastes of Chase, whereof the Buck, being the first, is called, as followeth:

The first yeere, a Fawne.

The second yeere, a Pricket.

The third yeere, a Sorell.

The fowerth yeere, a Sore.

The fift yeere, a Buck of the first head.

The sixt yeere, a Buck, or, a great Buck.

The next after the Buck, is the Doo, being accounted the second beast of Chase, which is called, as hereafter

after followeth :

The first yeere, a Fawne.

The second yeere, a Prickets sister.

The third yeere, a Doo.

The third beast of Chase, is the Fox, and albeit that the Fox is said to haue great plentie of pollicie and deuices, yet there is verie litle variety in the tearmes of Foxes: for a Fox is called :

The first yeere, a Cub.

The second yeere, a Fox.

and so, still afterwards they are called Foxes, without any other difference, more then, an old Foxe, or, such like, and also a Litter of Cubs.

The Marterne, or, Martron, as some old Foxresters, or Woodmen, do call them, being the fowerth beast of Chase, wherof we haue no great store in these Foxrests on this side Trent, but yet in the Countrey of Westmerland in Hartendale, there are many: The tearmes of the Marterne or Martron are these: The Marterne is called,

The first yeere, a Marterne Cub.

Sir Tristram.

The second yeere he is called, a Marterne.

Also the Foxresters do call a companie of Marternes, a Richesse of Marternes.

The fifth and the last beast of Chase, is the Roo, whose proper tearmes appertayning to Chase are these: that is to say, a Roo is called,

The first yeere, a Kid.

The second yeere, a Gyrle.

The third yeere, a Hemuse.

The fowerth yeere, a Roobuck of the first head.

The fifth yeere, a faire Roobuck

As for the beasts of Warren, the Hare hath been shewed already before.

The Conie is called, The first yeere, a Rabet, and afterwards, an old Conie.



*The seasons of these beastes are, as followeth.*

The time of greace of a Hart, or Buck, beginneth at Midsummer day, and lasteth till Holy Rood day.

The season of the Fox, beginneth at the Natiuitie of Christ, and lasteth vntill the Annunciation of our Ladie.

The season of the Hynd, or Doo, doth begin at Holy Rood day, and lasteth till Candelmas.

The season of the Roobuck, beginneth at Easter, and lasteth till Michaelmas.

The season of the Roo, beginneth at Michaelmas, and lasteth vntill Candelmas.

The season and hunting of the Hare, beginneth at Michaelmas, and lasteth till Midsummer.

The season of the Wolfe, is said to be from Christmas till the Annunciation of our Ladie.

The season of the Boare, is from the Natiuitie of Christ, till the Purification of our Lady.

6 Of the apt and meet tearmes of Hunting, apperteyning both to beastes of Venerie, and Chase.

**F**oresters and good Woodmen do vse to say :

A heard of Harts.

A heard of all manner of Deere.

A beuie of Rooes.

A soulder of Swine.

A rout of Wolfes.

A richesse of Marternes.

A brace of Buckes, or a lease of Buckes.

A brace of Foxes, or a lease of Foxes.

A brace of Hares, or a lease of Hares.

A cople of Rabets, or a cople of Conies.

A Hare

A Hart harbozeth.  
 A Buck lodgeth.  
 A Roo beddeth.  
 A Hare seated, or formed.  
 A Conie sitteth.  
 A Fox kenneleth.

A litter of Cubs.  
 A neast of Rabets.

You shall say

The Deare is broken.  
 The Fox is cased.  
 The Hare is cased.

You shall say

Dislodge the Buck.  
 Start the Hare.  
 Unkennell the Fox.  
 Rowse the Hart.  
 Boulte the Conie.

You shall say

A Hart belloweth.  
 A Buck growmeth.  
 A Roo belleth.  
 A Boare freameth.  
 A Hare, or a Conie beateth or tappeth.  
 A Fox barketh.  
 A Wolfe howleth.

You may say

A Hart, or a Buck goeth to rut.  
 A Roo goeth to his courne.  
 A Boare goeth to the bzinne.  
 A Hare and Conie to the buck.  
 A Fox to clicketting.  
 A Wolfe goeth to match, or to his make.



The Fat of all kind of Deare is called, Sewet, & it may be very well said also to say: This Deare was an heigh Deare of greace. The Fat of the Boare, and the Hare, is called greace.

The Book of  
Saint Albons

The Fat of the Roo only is called Beuie greace.

Old Sir Tri-  
stram,

And this is a thing heighly to be obserued, that the ordure of euery beast of Chase and Venerie hath his proper tearm: the reason is, because that their ordure & excrements are one principall mark, whereby the good Forresters and woodmen do know the place of their feed, And also their estate: So that a Forrester or woodman, in talk, or in making of his reports, shalbe often constrained to rehearse the same: And therfore you shal vnderstand, that of an Hart, & of all Deare, the ordure is called fewmets, or fewmishing: Of a Hare, crottels or cratiling: Of a Boare, the lesles. Of a Fox, and all other vermyn, the fyants.

*The Tearmes of the treading, or footing, of all beastes of Venerie and Chase, are as followeth.*

Of a Hart, the Slot.

Of a Buck, and all other fallow Deare, the vewe.

Of a Boare, the tract or treading.

Of a Hare, diuersly, for when she is in plain fieldes, she tozeth: when she chalet about to deceaue the hounds, then she dubleth: when she beateth a hard high away, where you may yet find and perceaue her footing, there she pricketh: Also in time of snow, we say, the trace of an Hare,

Of a Fox, and all other Vermine, the footing.

*The tearmes of the Tayle.*

Of a Hart, the tayle.

Of a Buck, Roo, or, any other Deare, the single.

Of a Boare, the wreath.

Of a Fox, his bush, or holy water sprinkle.

Of a Wolfe, his stearne.

Of the Hare, and Conie, the scut.

When

When a Hart is past his sixt yeere, he is generally to be called a Hart of Tenn, and afterwards according to the increase of his head, whether he be croched, palmed, or crowned. When he breaketh heard, and draweth to the thickets, or couerts, the Forresters and woodmen do say, he taketh his hold.

Good Forresters and skilfull woodmen, in beasts of venerie and chase, do call the round roll of the hozne, that is next to the head of the Hart, the Bur: The main hozne it selfe, they call the Beame: the lowest antlier, is called the Brow antlier, or Beas antlier: the next, Roial: the next aboue that, Surroial: and then the Top. In a Buck they say, Bur, Beame, Braunch, Aduauncers, Palme, and Spellers.

7 Of the Antiquitie of Hunting and Chasing  
of wilde beastes.

It doth appeare, euen by the holie Scripture, that hunting and chasing of wild beasts, hath been vsed and taken for a pastime of recreation and great delight, almost from the beginning of the world. We read in the 25. of Genesis, that Esau became a cunning hunter: that is to say, a man that was expert in chasing & hunting of wild beasts. We read in the 16. of Ieremie, where the Prophet threatneth the wicked, that God will send hunters to hunt them from the hills, and the mountaines, and from the caues, where in they were. And likewise we read in the 10. of Genesis, that Nimrod grew great vpon the earth, and that he became a mightie hunter. And againe, we read in the 25. of Genesis, that Isack loued Esau, because he did eate of his Venison. We read in the 27. of Genesis, that Isack being old, commaunded his sonne Esau to take his bowe and his arrowes, and to get him to the fieldes, and to take him some Venison, to make him meate that he

Genesis cap.  
25.

Ieremy 16.  
verse 16.

Genesis cap.  
10.

Gene. 25.

Gene. 27.



1. book of  
Kings cap. 4.

Ouid Meta-  
morphosis.

loued. We read in the first book of Kings, that Salomon had allowed him euery day for his kingly dyet, certeine Harts and Bucks for venison. The historie, that Ouid the poet, doth report of Acteon the hunter, who as he was hunting of a Hart, for an offence that he had done vnto Diana the Goddess of Chastitie, he himselfe was turned into a Hart, doth proue the antiquitie of hunting to be great. Hunting in Forrests, Chases, & such like priuiledged places of pleasure, is only for Kings, Princes, & great worthy parsonages, and not for mean men of mean calling or condition: But they may hunt & kill wild beasts in some sort, when they can take them in their wilddnes, being farre of from any Forrest, Chase, or Purlieu, and some men may in some sort kill them in the purlieus.

### Chap. v.

- 1 *What is Venison.*
- 2 *Of the generall signification of Venison.*
- 3 *Of the speciall signification thereof.*
- 4 *Whereof the same receiueth the name of Venison.*

#### I What is Venison.



Every Forrest hath two ornaments that doth grace and decozate the same, and which are as it were the onely bewtie of a Forrest, and the want of either of them doth in short time, not only deface and blemish a Forrest, but also make a Forrest to be no Forrest at all. The first of which ornaments is called Vert, and the second is called Venison: and although that Vert haue alwaies the first place, and is set before Venison, amongst the Canons of the

the Forrest Lawes, yet because in the former Chapter and treatise I haue already treated of beasts of Venery, chase, & warren, it is now most necessarie, that I do proceed next with Venison, and then next after it, with Vert: And therefore you shall vnderstand, that euen as the old Forresters & good woodmen, do by this general tearm, Beasts of venery, vnderstand euery beast of forrest: Euen so, they do likewise by this generall woord Venison, vnderstand euery beast of Forrest & Chase, as a woord of art proper to beasts of Forrest, & beasts of Chase, and to none other. And therefore by this woord Venison, it is to be vnderstood, that it is, & must be alwaies, one of the five beasts of forrest aforesaid, or one of the five beasts of Chase, or els the same is not to be called Venison. And according to this interpretation, the Forrest Lawes, & the very kings, princes, & the Law makers themselves, do vnderstand this woord Venison, which in Latin is called Venatio, as it appeareth in the 1. book of Kings, in these woords, *Erat autem cibus Salomonis per dies singulos triginta Cori simile, & sexaginta cori farine, decem boues pingues, & viginti boues pascuales, & centum pecudes, excepta venatione Ceruorum*, Salomons food was euery day, thirtie quarters of manchet flower, and ix. quarters of meale, x. stalled oren, & xx. oren out of the pastures, and an hundred sheep, besides the venison of Harts. And all the whole scope of the Forrest Lawes tendeth to the preservation of Vert and Venison: By which woord Venison is vnderstood, euery beast of Forrest & Chase: as it doth appear in Carta de Foresta in these woords, *Preterea singulis quadraginta diebus per totū annum conueniant Forestarij & Viridarij, ad videndum attachiamenta de Foresta, tam de viridi quam de venatione*, Moreouer euery fortie daies throughout the whole yere, our Forresters & verderers shal meet together, to see the attachments of the Forrest, as well for the offences & trespasses of vert, as of venison: So that

if a

Primo Reg.  
cap. 4. ver. 21

Carta de Foresta  
aric. 8.  
in fine ibidē.



Assisa Forestarum  
de Pickring  
fo. 13. Anno  
8. E. 3.

Carta de Foresta  
artic. 10

Carta de Foresta  
artic. 16

if a man do hunt in the Forrest, & kill a Hare, the Forrester may attach him for the same offence: for the same is a trespass in the Venison of the kings forrest. For prooffe hereof it appeareth in the Assises of the Forrest of Pickring, that two men were indicted for striking of a Hare in her forme, and for taking of an other within the Forrest, And the one of them was committed to prison, & made fine and ransome for the same offence, & was bound to the good abearing of the Forrest, & the other was outlawed: Whereby it is to be noted, that Hares are venison & beasts of the forrest. And likewise it appeareth in Carta de Foresta in these wordes, Nullus de cetero amittat vitam vel membra pro venatione nostra, from henceforth no man shall lose his life nor members for the killing of our Venison: Where note, that that word pro venatione, must be understood for any beast of Forrest or Chase: for before the making of the great Charter of the Forrest, the killing of any wild beast within the Forrest was punishable by the king at his will & pleasure, and not by any Law certein: And therefore the king might haue punished a man for the killing of a Hare, or a Fox, or a Marten, or any other beast of Forrest, before the granting of the great Charter of the Forrest, even with the losse of life, or the losse of an Arme: And therefore to thend to take the best aduantage of the wordes of the Charter, Nullus de cetero amittat vitam vel membra pro venatione nostra, must be understood, that the meaning of the Charter must be, that from henceforth no man shall lose life or member pro venatione nostra, for the killing of venison: that is for the killing of any beast of Forrest or Chase, And so that word Venatio, Venison, is understood any beast of Forrest or Chase. And so likewise in the same Charter, where it is appointed, who only shall hold plees of the Forrest, in these wordes, Nullus Constabularius, Castellanus, vel Balliuus, teneat placita de Foresta, siue de Viridi, siue de Venatione,

No Constable, Castellain, or bailly, shal hold any plee of any matters of the Forrest, either of vert or of venison: Where note, that there that word p venatione, must be understood of the killing, hunting, or chaling of any beast that is within the forrest, be it beast of forrest, or beast of chase: so that all the ples of the Forrest, they are, aut de viridi, aut de venatione, either of vert, or of venison: And again in the new Ordinances, that were made by king Edw. the first, in the xxxiii. yere of his raigne called, ordinatio Forestę, but in the Register of writs, & also of some others, it is called additio Forestę, the king doth make a special prouision or law, that euery Forrester of the forrest, shall present all the trespasses & offences of the Forrest, at the next Swannimote Court, that shalbe holden within the same Forrest, where the same trespass shalbe done, the words being these, In primis ordinauimus p nobis & heredibus nostris, quod de transgressionibus in Forestis nostris, de viridi & de venatione de cetero factis, Forestarij, infra quorū balliuas, huiusmodi transgressi. fieri contigerint, presentent easdē ad proximū Swannimot coram &c. first we haue decreed for vs and our heires, that of trespasses hereafter to be done in our forrests of vert & of venison, the Forresters or woodmen, within whose bailiwick or walks such trespasses shall happen to be done, or committed, shal present the same at the next Swannimote befoze the Forresters, berderers, regarders, &c. where note, that all the trespasses of the forrest are there ment to be set down, & it doth ther appear, that they are either of vert, or of venison: And so then this word venison, must be understood, of euery beast, ment & intēded to haue priuiledge within the forrest, which are the beasts of forrest & chase. And in y same Ordinatio forestę, wheras the king doth pardon offenders, & such as haue trespassed in his forrests, the king doth pardon them by these words, de transgr de viridi & de venatione, which is of al offences & trespasses of the forrest, viz. of vert & veni-

Ordinatio  
Forestę.

Ordinatio  
Forestę ar-  
tic. 1.

Ordinatio  
Forestę anno  
34. E. 1. art. 5.



Tierius in son  
prim. r Liure  
de la venerie.

Carta de Fo-  
resta artic. 10

venison, by which the king doth vnderstand euery trespassse in hunting or chasling of any beast in the Forrest, be they beasts of Forrest, or beasts of Chase. The French Authoꝝ that do writ of the wild beasts of forrest & chase, do vse this word venaison, also indifferently, for any beast of Forrest or Chase: so that hereby you may see, that this word venatio, venison, is vnderstood of Forresters but only for beasts of forrest & chase. And in Carta de Foresta artic. 10. in these words, sed si quis captus fuerit, & conuictus de captione venationis nostre, but if any man be taken & couicted for taking of our venison, he shal make a greuous fine: There it doth apper, that this word Venison is taken for euery beast of forrest & chase. And so likewise in the same charter in the 16. art. wher the words are these, sed quilibet Forestarius de feodo attachiet placita de foresta, tam de viridi quam de venatione, but euery forrester of fee shal make attachmēts for ples of the Forrest, aswel of vert as of venison: so that therby it seemeth, that all the attachmēts & ples of the forrest, they are either of vert or of venison: then therfore this word venison, reacheth to euery beast, that is ment & intended to haue any priuiledge within the limits of the Forrest.

## 2 Of the generall signification of Venison.

Hollenshed  
pag. 206. v. 30

**N**ow concerning the general signification of this word Venison, it is often taken for any wild beast that is killed by hunting: as a squerrel, a wild Goat, & such like, which are not beasts of Forrest nor Chase. And so Hollenshed in his discription of Englad reporteth, that in the East countries they do vse to hunt the Bear, which saith he is excellent good venison: And so by this word Venatio, being taken in y general sence, may be vnderstood any maner of wild beast that is taken or killed by hunting. Ferina is also Venison, or in the general sence, the flesh of any wild beast, that is taken in hunting: as a Squerrell, a wild Goat, or any beast of Forrest

Forrest or Chase, so that Venatio, or Ferina, being taken in the generall signification, is no other, but as if a man should say, ferina caro, wild flesh, or the flesh of a wild beast, which may be understood indifferently of any wild beasts: But the Forresters, nor Forrest Lawiers, do not understand this word Venatio, Venison, in that sence, for they do understand by this word Venison, but only such beasts as are, or in times past, haue been beasts specially priuiledged by the king within the Forrest, which beasts onely are called beasts of Forrest, & beasts of Chase, and none other.

3 Of the speciall signification thereof.

**A**nd even as this word Venison, before in the second diuision of this treatise, hath a more large scope and signification, then in the first: so in some speciall particuler sence, the same hath yet a more speciall and particuler signification, then in either of them, for, whereas in the first diuision of this treatise, this word Venison, is understood onely for beasts of Forrest and Chase: in some sence, this word Venison, is taken but onely for the flesh of the Hart, the Hynd, the Buck, and the Doo, and the beastes that are of that kind: for amongst the common sort of people, nothing is accompted Venison, but the flesh of Redd and Fallow deere: And the reason thereof is, because that the common people do not accompt any beast venison, but that which is vsually eaten and baked for venison, as the Redd and the fallow deere is. And as for other beasts of Forrest and Chase, albeit that the Forresters, and the Forrest Lawiers, do accompt them Venison for the pleasure and delight of hunting onely, yet because they are not vsually eaten and baked for venison amongst them, therfore these beasts do not carrie the esteeme, nor name, of venison with some. But as Budæus saith, you must therfore understand, Budæus in 2.  
libro Philo-  
logiz. that



that this woord Venison is twofold, for, saith he, there are some wild beastes, that are esteemed venison as well for the daintie and pleasant tast of the flesh for meat for Princes, as also for the great delight and pleasure that is in chasling, hunting, and killing of them, such are all the sorts of Red and Fallow Deare: And againe, there are some other sort of wild beastes, that are also priuiledged, which are esteemed Venison, rather for the princely delight and pleasure, in hunting, chasling, and killing of them, then in the pleasant tast and sweetnes of their flesh, and such are all the residue of the beastes of Forrest and Chase, which are not vsually eaten, when they are killed & taken by hunting. We read in the 25. of Genesis, that Isack loued Esau, because he did eate of his venison. And also in the 27. of Genesis, we read that Isack called his sonne Esau, and commaunded him to take his bowe and his arrowes, and to go to the fieldes, and to take him some Venison, to make him meate that he loued: Heer this woord Venison is to be vnderstood but onely of Red deare, or Fallow deare, and not of other wild beastes that were not to be eaten. And thus you may see the speciall signification of this woord Venison, and how the same is to be vnderstood diuersly, and in diuerse sences.

Genesis cap.  
25.  
Genesis cap.  
27.

#### 4 Whereof the same receiueth the name of Venison.

**T**his woord Venison, is called in Latin Venatio, in euery place where venison is spoken of in Carta de Foresta, and in Ordinatione Forestę, there still this woord Venatio is vled, and not any other woord, and as it seemeth verie aptly for that purpose, for Venatio commeth of the verbe Venor, Venaris, to hunt, and is there taken for a wild beast of Forrest or of Chase, that is to be taken by hunting, or to be hunted, as well those beastes that are not vsually

usually eaten for Venison, as those that are eaten. But such venison, as we do account venison onely, for the goodnes of the meate (as Red Deare and Fallow Deare) is called more properly in Latin Ferina, as it doth appeare by the Poet Virgill in his Aeneads in these woords:

*Implentur veteris Bacchi, pinguisq; ferina.*

Virgill Lib. 1.  
Aeneados fo.  
109.

They were well filled with fat Venison and old wine. But our English woord Venison, is deriued from the French tongue, which doth call the same venaison, verie little differing from vs, which woord venaison commeth of the verbe vener, to hunt. Also our oldest English writers do call the same Venson, and not Venison: But by what reason I see not. Budæus reporteth this old verse of Venison:

*Non est inquirendum, unde venit Venison,*

*Nam si forte furto sit, sola fides sufficit.*

If any man chance to be bidden to his friendes house to eate his part of fat Venison, let him remember this old verse, which in English is this:

It is not to be inquired from whence Venison commeth,

For if by chance it stollen bee,

A good beliefe suffiseth thee.

## Chap. vj.

1 What is Vert in generall.

2 How many sorts of Vert there are.

3 What is Vert in the Kings owne Woodes.

4 What shall be said to be Vert in the woodes of enery common person.

5 Whereof the same receaueth the name of Vert.

1 What



## What is Vert in generall.



**D**o proceede with Vert, being the other of the foresaid principall ornaments of a Forrest, it is manifest, that euen as a Forrest, hauing neither beast of Cenerie, nor beast of Chase in it, is no Forrest at all, but a void and vnprofitable peece of ground for that purpose: for although that the same place do still remayne priuiledged, yet the same retayneth no more of a Forrest, but onely the bare name: Forasmuch as the wild beasts of the Forrest, for which the same was first priuiledged and made a Forrest, are vtterly destroyed and exiled from thence: So likewise, if the Vert of the Forrest be cut downe & destroyed, the want of it doth in short time make a Forrest to be no Forrest: for the destruction of the Vert in the Forrest, doth alwaies banish the wild beasts out of the Forrest, and therefore the Forrest Lawes do as greatly regard the preservation of the vert of the Forrest, as they do the Venison: In somuch that Vert hath alwaies the first place before Venison: Because to preserve well the Venison of the Forrest, it is first to begin with the Vert, and to preserve the same, forasmuch as the plenty of Vert in a Forrest, is the only chiefe meanes to preserve Venison, & to haue plentie thereof: And contrarywise to destroy the Vert of the Forrest, is the means to destroy the Venison and wild beasts of the Forrest, and there is nothing that doth so much deface & disgrace a Forrest, as to cut downe and destroy the couerts, which is the vert of the Forrest. And therefore it is to be noted, that there are three speciall causes, why the Forrest Lawes haue so carefully provided for the preservation of the Vert of the Forrest.

The

The first is, because that the very nature of the wild beasts of the Forrest is, to resort vnto the woods and great couerts, wherein they do take their chiefest delight and felicitie to be secret and quiet in their couches, or as it is said in xxxviii. chapter of Iob, Vbi cubant in antris, & in specubus insidiantur, where they do lie secretly in there bowers, and watch in their secret couerts. And as Budæus saith, In syluis impeditissimis sunt cōciliabula ferarum, vbi gaudent requiescere fera. The wild beastes of the Forrest haue their secret counselhouses in the greatest thick woods, where they do most chiefly delight to take their rest. And as the wild beasts do delight to haue their abode in the couerts and great woods, so the same is againe a most speciall shelter for them, in the winter from the cold, and in the Sommer from the heat. And if a wild beast of the Forrest be hunted or chased, he presently taketh the couerts as a refuge and safegard for him, to fly vnto, and for this cause the Forrest lawes haue alwaies had a speciall regard for to preserve the Vert of the Forrest.

Iob Chap. 38.  
in fine ibide.

Budæus in 2.  
libro philo-  
logia.

The second cause is, for that the woods and couerts of the Forrest, or at the least wise those, that are accompted especially Vert, do beare fruit, which is food for the Deere in winter, when there is litle grasse or other meat for them to feede vpon, and then they do feed vpon Acornes, Hawes, and Slowes, and such like. And when there is not sufficient foode for the Deere, neyther of grasse, nor of such fruites, then the Forresters, that haue the charge of the wild beastes, must prouide Browsewood to be cut downe for them to feed vpon: So that the woods and couerts of the Forrest, are not onely preserved to be couerts, to hyde and succour the Deere in: but also, to be foode for them in the great Frostes and Snowes, and in the hard weather when the ground is couered, when they can not get any other food otherwise.



The third cause of the preservation of the Vert of the Forrest, is, Propter decorum, that is for the comeliness and bewtie of the same in a Forrest, for the very sight and beholding of the goodly greene and pleasant woods in a Forrest, is no lesse pleasant & delightfull in the eye of a Prince, then the view of the wild beastes of Forrest and Chase, and therefore the grace of a Forrest is, to be decked and trimmed up with store of pleasant greene couerts, as if it were greene Arbores of pleasure, for the King to delight himselfe in, as it is written, *Quia in Forestis penetralia regum sunt, & eorum maxime deliciae, ad has quidem venandi causa, Curis quandoq; depositis, accedunt, vt modica quiete recreentur illic, Serijs simul & multis Curiaz tumultibus omissis, in naturalis libertatis gratiam paulisper respirent, vnde fit, vt delinquentes in ea soli regiae subiacent animaduersioni*, because that in the Forrests there are the secret pleasures and princely delights of the kings, for Kings and Princes doe resort vnto the Forrestes for their pleasure of Hunting, hauing for that time layd aside all cares, to theend that they might there be refreshed with some quiet, beyng wried with the continuall businesse of the Court, they might, as it were, breathe a while, for the refreshing of their free libertie. And therefore this is the third cause, why the Lawes of the Forrest, haue so prouidently prouided for the preservation of the Vert of the Forrest.

Having declared the vse and necessitie of Vert in a Forrest, it is necessary also to shew what is Vert. And for that you shall vnderstand, that Vert, in generall, is, euery plant, that doth growe within the Forest and beare greene leafe, which may hide or couer a Deere vnder it. But here you must vnderstand this word plant, for such plants, as are either, trees, woods, bushes, or such like, which are of the nature of wood or vnderwood: And not of those kind of plants, which

which are of y nature of herbs, as thistles, & such like, which likewise may also be cōprehēded within the word plant, but not in this sence. After the making of Carta de foresta, there was some questiō amongst those, that were vñlearned in the Forrest lawes, what was Vert, some did affirme that nothing within the Forrest was Vert, or to be accōpted Vert, but only those trees, which did beare fruit to feed the Deere withall, which was cleane cōtrary to the lawes of the Forrest, but yet to chend to auoid this folish opinion, & to make the certenty knowne to all men, what is Vert within the Forrest, King Edward the first made this law, Sciendum est quod omnes arbores fructum non portantes, & hæ quæ fructum portant per totum annum, & fraxinus, si antiqua fuerit, in Foresta & arabili, quia dominus rex est in scilina. Knowpe, saith the king, that all trees, which shalbe growing within the Forrest, aswel those, which beare no fruit at all, as those which do beare fruit at any time in the whole yeere, & an old Ashe, beyng in the arible lād within the Forrest, these shall be accōpted Vert, because the king is in possession of them: by this you may see & know, what is Vert, for here the king hath made a law to explane this doubt, what shalbe said to be Vert, which is, euery tree that doth grow within the Forrest, aswell that which is called Hault Boys, as y which is called South Boys, that is great wood and vnderwood, for these wordes, Omnes arbores, must be vnderstood and taken, aswell for vnderwoods as for great woods, as it doth appeare in 23. H. 6.

Anno 6. E. 1.  
Rastals abrid-  
gment of sta-  
tus in titulo  
forest, 21.

11. H. 4. fo. 31  
Case 59.  
H. 10. H. 6. f.  
22. Cal. 20.

2 How many sorts of Vert there are.

**A**ND you shall vnderstand also, that there are two sorts of Vert in euery Forrest, that is to say, Ouer vert, and, Neather vert: Ouer vert is that, which the Lawiers do call Hault Boys, & Neather vert is that, which the Lawiers



do call South Boys, and in the Forrest lawes, Ouer vert is all manner of Hault Boys, or great wood, as well such as beareth fruit, as such as beareth none. Old Ashes and Hollie trees they are accompted Ouer vert. Neather vert is that, which the Lawiers do call South Boys, & that is properly al manner of vnderwood, and also Bushes, Thoznes, Gorse, and such like, and some men do take Fearne and Heath to be Neather vert, but it can not be so, vnlesse that the same be vnderwood, or of the kind of vnderwood, as Master Seriant Fleetwood saith: And with this also agreeth M. Hesketh in his reading vpon Carta de Foresta, and yet it is not lawfull for any man to burne or destroy, either, Fearne, or Heath, or such like within a forrest, because that it is taken by the assises of the Forrest to be couerts for the kings wild beasts.

M. Seriant  
Fleetwood  
fol. 4.  
M. Hesketh fo.  
39. in his rea-  
ding.

Assisa de pick-  
ring an. 8. E. 3.

It was adiudged in the assises of Pickring in An. 8. E. 3. that to cut downe Lignum viride, or Ramos virides, within any Forrest, is finable Per assisam Forestæ.

Ibidem.

An. 10 Ric. 1.  
Hollenshed  
fol. 153. b. 50.

And also he, that cutteth downe vnderwoods, thoznes, elder trees, boughs, lignum siccum, siccus Ramos, & huiusmodi within the Forrest, is a trespasser in Vert. King R. 1. in the 10. yeere of his raigne, did appoint Hugh Neuill, Hugh Walley, & Heruesh Neuill, Iustices Itinerats of his Forrests, and commanded them to call before them, Archbishops, Bishops, Carles, Barrons, Knights, Freeholders, with the Reue, and foure of the substantiall men of euery Towne or Village, to heare and take knowledge of the Kings commaundement, touching the ordinances of Forrestes, and those, that offended in cutting downe woods or Bushes, or in digging or deluing vp of Turfes and Cloddes, or by any other manner of way, made wast and destruction in woods or grasse, within the precincts of the Forrests, contrary to the Lawes of the same, they should be put to their fines: Here you may perceaue, that it was

was not lawfull then, for any man to cut downe woods or bushes, nor to digge Turfes in his owne ground within the Forrest, and the same remaineth lawe still at this day, for this is not altered by Carta de Foresta in any point, nor by any other lawe since.

Befoze the making of Carta de Foresta, in the time of kinge Henry the second, and king Richard the first, if any man were taken offending within the kings Forrest, in killing of his Deere, he was then punishable with the losse of life, or of his eyes, or genitals: but this law was taken away by Carta de Foresta in these words, nullus de cetero amittat vitam vel membra pro venatione nostra, from henceforth no man shall lose eyther lyfe or member for killing of our Venison, but the punishments and lawes for Vert, that were in the time of King Henry the second, or King Richard the first, are lawes remainyng in force still at this day, and not altered by Carta de Foresta. It appeareth in the New ordinances of the Forrest since Magna Carta, being made in the 6. yeere of king Edward the first, called Assisa & consuetudines Forestæ, that by the Forrest lawes, men, that dwell within the Forrests, may not cut downe housebote, nor hedgbote within their owne woods, without the view of the Forresters, and if any man do, he is a trespasser in the Vert of the Forrest.

Hollenshed  
fol. 153. b. 50.

Rastall in his  
Abridgmet of  
statuts, titulo  
Forest 21.

Besides the former diuision of Vert, into Ouer vert, and Neither vert, the Forrest Lawiers haue a third sort of vert, which they do call Speciall vert, which is euery tree and bush within the Forrest, that doth beare fruite to feed the Deere withall, as Peare trees, Crabtrees, Hawthornes, Black bushe, and such like, and the reason, why they do call the same Speciall vert, is, because the offence in destroying of such vert, is moze highly punished, then the offence in the destruction of any other vert, according to the quantitie thereof: And here note, that Speciall



Vert may be eyther, Ouer vert, or Neather vert, if the same beare fruit, for none is taken for Speciall vert, whether the same be Ouer vert, or Neather vert, vnlesse it do carie fruit to feede the Deere and wild beasts withall.

3 What is *Vert* in the kings owne woods.

Carta de Fo-  
resta Canuti  
regis Can. 28

Idm Pickring  
An. 8. E. 3.

**I**n euery Forrest of the Kings, or in the most part of the, there are some woods, that are the kings owne demeasne woods. And therefore you shall vnderstand, that euery tree, which doth grow in the kings owne demeasne woods, whether they be Hault Boys, or South Boys, great wood or vnderwood, or whether the same do beare fruite, or not, at any tyme in the yeere, they are all accompted Speciall vert, and so they were accompted euen by the Charter of the Forrest, that was graunted by King Canutus, as it doth there appeare in his Canon 28. in these words, Bosco nec subbosco nostro, sine licentia primariorum Forestarum, nemo manum apponat, quod si quis fecerit, reus sit fractionis regalis Chacear. No man shall lay his hand vpon our great wood or vnderwood being within our demeasnes, without licence of our Clerderers or chiefe men of the Forrest, and if any man shall do the contrary, he shalbe guilty of the breach of our free Chase Royal. And as euery tree in the Kings owne demeasne woods is Speciall vert, so is the same there specially p̄iudged, and the offenders in the Kings owne vert, are more especially punished, then the offenders in vert, which doth growe in the woodes and grounds of other men: for if any man do cut downe Bushes or Thornes in the Forrest, beyng within the Kings owne demeasne woods or lands, and carie them away with his cart, in this Case the cart and hoxles shalbe seized vnto the Kings vse, and he shalbe fined to the value  
of

of the wood. And also if any man do cut downe Vert within the Forrest in the Kings owne demesne woods, and doth carrie away the same vppon his Horse backe, he shall forfeit the price of the Vert, and his Horse also to be sealed to the Kings vse. So that euery small tree, or bushe, growing in the Kings ground within the Forrest, is Speciall vert, because that the Trespassers in the Kings owne vert, are specially punished with a greater penaltie, then those, which do offend in the Kings Vert, which is growing in the woods and landes of other men. In the Assises of Pickering in Anno.8. of King Edward the third, there are sundry presidents against such as are trespassers in the Kings vert in his owne woods: whereof amongst many I will recite one, which is this, *Presentatum est per Forestarios, & conuictum per viridarios, quod Humfridus Tobercepit vndecim virides quercos infra dominicum praeij cuiuslibet j. d. & cariauit illas cum vno plastro & sex Bobus, quae apportionentur, viz. plastrum ad vj. d. & Boues ad xvj. s. praeij cuiuslibet ij. s. viij. d. vnde tenentes terrae & tenementorum Richardi de S. viridarij istius Forestae, ad cuius manus praeium praedictum deuenit, respondeant, & similiter pro forisfactura eiusdem vndecim solidos, by which presentment, you may note this differēce, that in euerie presentment against an Offender in Vert, in the Kings owne woods, there it is said *Infra Dominicum*, and then alwayes the Cart or other thing that doth carrie away the same Vert, is forfeit to the King. And in the constitutions of the Forrest, that were made and set downe for Vert by king Edward the first, in the sixt peere of his Raigne, beyng after *Carta de Foresta*, there is likewise this difference in euerie Branch or Article of the same, that where it is ment and intended to concerne the Vert in the kings owne woods, there the wordes are alwayes, *Infra dominicum*:*

Assisa forestae  
de Pickering  
An. 8. E. 3.

Assisa & con-  
suetudines  
forestae art. 2.  
In the abrid-  
gment of sta-  
tutes of Rastall  
titulo forestae  
21.



And whereas there is not this worde *Infra Dominicum*, there the same doth concerne the *Vert*, that is in other mens woods and lands, and not in the kings owne lands.

4 What shalbe said to be *Vert* in the woods of euery common person.

Canutus in  
his ordināces  
of the forest,  
Canon, 29.

Affisa & con-  
suetudines fo-  
restarum in Ra-  
stals abridg-  
ment of ita-  
rums titulo fo-  
restas 21.

**I**n the woods and lands, of euery common person, which are within the regard of the *Forrest*, al great woods and underwoods are called *Vert*, (as already before hath beene shewed) whereof some are *Ouervert*, and some are *Neithervert*, but none of them are called *Speciallvert*, being out of the *Kings owne woods*, but such trees as do beare fruit to feede the *Deere*, which, because they are such trees as cannot be spared out of the *Forrest*, so well as other trees that do not beare fruite, therefore they onely are called *Speciallvert*, as it appeareth in the *Forrest laws* of *Canutus*, Canon. 29. *Si quis verò ilicem, aut arborem aliquam, quæ victum feris suppeditat, Sciderit, Præter fractionem regalis Chaceæ, emendet regi viginti solidis,* if any man do cut downe a *Holly tree*, or any other tree within the *Forrest*, which doth beare fruite for foode for the wild beasts, besides the breach of the *Kings free Chale Royall*, he shall pay twenty shillings to the *King* for a recompence. And in the new *Ordinances* of the *Forrest*, that were made after *Carta de Forresta*, in the sixt yeere of *King Edward the first*, *Si quis inuentus fuerit extra dominicum Boscum, & infra Regardum, prosteruens quercum sine visu aut liberatione forestarij aut viridarij, debet attachiari per quatuor plegios, & per visum viridarium debet quercus appreciari, & in Rotulo Forestariorum & viridariorum nomina plegiorum imbreuiari,* If any man shalbe founde selling of an *Oke*, without the *Kings woods*, and within his owne *Freehold*, beyng within

within the regard of the Forrest, without the view or deli-  
 uery of the forrester or verderer, he shalbe attached by foure  
 pledges, And by the view of the verderers the Oke shall be  
 praised, and the names of the pledges shalbe witten in the  
 Role of the forresters and verderers: So that by this it  
 appeareth that an Oke, which doth beare Acornes to feede  
 the Deere withall, shall not be cut downe, although the  
 same doe grow in a mans owne freehold, without the deli-  
 uery of the forresters or verderers. And the like is of euery  
 Tree that doth beare fruit to feede the Deere withall, and  
 therefore they are called Speciall vert, that is to say, a vert,  
 that the Lawes of the Forrest doe more specially regarde,  
 then other vert. And note this difference between the kings  
 owne woods and the wood of a common person, that in the  
 kings woods euery Tree is Speciall vert, and in the woods  
 or lands of a common person, no tree is speciall vert, but  
 that which doth beare fruit to feede the Deere withall. The  
 punishment for offenders in speciall vert, and also in any o-  
 ther kinde of vert, being out of the Kings owne woods, is  
 to be fined for the same, according to the quality and quan-  
 tity of the offence: but the offenders, that haue beene found  
 trespassing in speciall vert in the Kings owne woods, they  
 are to be punished for the same according to the quality and  
 quantity of the trespassse, and also the Cart and Horse and  
 all things, that doe carry the same vert, is forfeited to the  
 king, note the differences. It doeth seeme by those words,  
*Nec interest, cuius sunt nemora, siue regis, siue procerum*  
*&c.* For it doth not skill, whose woods the same be, that  
 are in the kings forrest, whether they be the kings woods,  
 or the woods of his noble men, for the Kings wilde beastes  
 must haue their free concourse in euery part thereof, where  
 note, that for as much, as the king by his prerogatiue may  
 vse other mens woods for the succour of his wilde beastes,  
 it must needes followe, that no man may destroy the same  
 woods,

*Assisa Lanca-  
 strie anno 8.  
 E. 3. in Casu  
 Fishborne.*

*In Rubro lib.  
 Scaccarij.*



woods, without the which the Kinges Deere can haue no continuance in the Forrest.

Of such woods, as are accompted Vert, being out of the Kings owne woods, the Lawes of the Forrest doeth most specially respect great couerts, and the speciall vert, which doth beare fruit for to feed the Deere, And as for the cutting downe of any of the other, although the same be done without licence, yet if that they doe stand scattering here & there, so that they be not many in number, nor by the cutting of them be no spoile or hurt to any great couert of the Forrest, although that the same be a trespasse in Vert, yet de minimis non curat lex, the law regardeth not euery trifle.

5 Whereof it receiueth the name of Vert.

This word Vert, taketh the name of Vert a viriditate, of greenenesse, for it is alwaies vnderstood but of such things, as doe growe within the Forrest and are greene, it is called in our olde English Greene Hewe, in Latine it is called Viridis, and thereof is framed this word Viridarius a Clerderer, or one that doeth take the charge of the Vert, or, of Greene Hewe. The French writers doe call it Ver, differing but one letter from our English word Vert, and thus much concerning Vert.

## Chap. vij.

- 1 Of the meres and bounds of the Forrest.
- 2 That euery Forrest of necessity must haue meres and bounds.
- 3 That all the meres and bounds of the Forrest do belong vnto the King onely.
- 4 The difference betweene, Infra Regardum forestæ, and, infra forestam.

1 Of

## 1 Of the meres and bounds of the Forrest.



Every Forrest, being a Franches within it selfe, must be inuironed with markes, meres, and boundaries, round about the same, wher by the circuit of ground, that is Forrest, may be knowne and discerned from that, which is not Forrest. Now, & in what sort, those markes, meres, and boundaries, are to be known from time to time, and what maner of markes, meres, and boundaries, those are, and their severall differences, hath already been shewed before in the first Chapter.

## 2 That every Forrest of necessity must haue meres and boundaries.

It is most necessary, that the very true meetes and lymits of the Forrest, should be knowne vnto all men, And most especially to those, that are the Officers of the Forrest, and that for many causes, for, if a man be presented for the killing of a wilde beast of the Forrest; the place, where the same was killed, is very materiall to be knowne: for, although that the same were a wilde beast of the Forrest, yet, if that it were killed out of the Forrest, which in some sort may be done, and yet no offence to the Forrest Lawes, and therefore the lymits and boundes of the Forrest are especially to be knowne: And also, when the regard doe go to make their view of the Forrest, and to see the spoile of the woods and couerts, and of all such articles, as they are by their office and oath charged to viewe and enquire of, there the lymittes and boundes of the Forrest must needes



Carta de fo-  
reſta articulo  
2.

Statute de  
malefactori-  
bus de anno  
21. E. 1.  
Magna Carta  
fo. 117. b.  
Raſtall titulo  
foreſt. 19.

needes be knowne vnto them, for otherwiſe they may deale with matters that are behoꝛſe, and out of the Forreſt, & that they may not doe. And whereas the wordes of Carta de foreſta are, *Homines vero, qui manent extra foreſtam, non veniant de cetero coram Juſticiarijs noſtris de foreſta, per cōmunes ſummoniciones &c.* Men, that dwell out of the Forreſt, from hence forth ſhall not come befoꝛe the Juſtices of our Forreſt, by Common Sommons: There, by theſe wordes *Extra foreſtā*, it is to be noted, ȳ euery Forreſt muſt haue certē markes, meeres, & boūdaries eſpecially known, whereby it may appeare, who be dwellers within the Forreſt, and who not: and whereas in the Statute of Vicesimo primo Edwardi primi, the wordes are, *ſi quis foreſtarius &c. In balliua ſua malefactores aliquos inuenerit vagantes ad dampnum ibidem faciend', & qui ſe foreſtarius &c.* If any Forreſter doe finde any trespasſer wandering within his libertie, which is within the Forreſt, intending to doe hurt or damage therein, and after he w and cry made to him, to ſtand vnto the peace, wil not peeſde himſelfe, but do flie or reſiſt, in this caſe, if the forreſter doe kill any ſuch offender, he ſhall not be impeached for this felony: Here it is moſt neceſſary, that the limits and bounds of the Forreſt be knowne very well, for in this caſe the limits and bounds of the Forreſt, as it may fall out, are iſſuable, for, the killing of ſuch an offender within the limits of the forreſt, or without, maketh it felony, or no felony: Wherefoꝛe, it is a maxime in the Forreſt Law, that euery forreſt muſt haue limits and boūdaries, that are knowne, as things to the ſame inſeperably incident.

3 That all the meeres and bounds of the Forreſt doe belong vnto the king onely.

**A**nd becauſe that euery Forreſt muſt of ſuch neceſſity haue markes, meeres, & boūdaries, apparantly known, there

therefore to the intent, that such markes, meres, and boundaries, should not by fraude be remoued, or otherwise spoiled or defaced, to the deceit of the king, or other Lozde of the Forrest, It is established as a lawe, *Secundum assisam forestæ Anno. 6. E. 1. quod omnes metæ forestæ integræ sunt domino regi*, that all the boundes of the Forrest are wholly the kings, Except in some certaine cases, as before in the first Chapter hath beene shewed.

*Rastals a-bridgment of Statute. titulo forest. 21. Verius finem Ibidem.*

In the Assises of Pickring, it was adiudged, that no man may fish in any Riuer, that is a boundarie or mere of a Forrest, vnlesse that he haue warrant so to doe, for, the same is parcell of the Forrest, and it is also the kinges, because it is a mere of the Forrest.

*Assisa forestæ de Pickring anno 8. E. 3. fol. 11.*

The Abbot of Whitby did kill a Hart within the Riuer of Deruent, which was the mets of the Forrest of Pickring. The Abbot and his company were indicted for the same, *Quia ceperunt vnum cervum in aqua de Deruent, quæ est Marchia forestæ, & venationem illam secum asportauit*, and for this cause, he made his fine and Raunsome, and was bound to the good abearing of the Forrest: by this you may note, that the meres and boundes of the Forrest are parcell of the Forrest. And by this you may also gather, that if a purlue hunter doe chase a Deere in the purlues, and his dog doth not pinch the Deere, vntil that the Deere doe recouer a mere of the Forrest, here in this case, the owner of the dog must not haue the Deere, although that the dog doe kill the same in the mere of the Forrest, Because that the mere of the Forrest is parcell of the Forrest, and then the Deere had recouered the Forrest being his priuiledge, before the dog did kill or seise him, And then so soone as his feete were in the meres of the Forrest, no dogge hauing holde of him, he is the Kinges, and in the protection of the King, And then no man may touch him, but he shall be a trespasser of the Forrest.

*Anno 8. E. 3. pickring. f. 6.*



4 The difference betweene, *Infra Regardum forestæ*,  
and *infra forestam*.

Alia & con-  
suetudines fo-  
restæ anno 6.  
E. 1.

Alia & con-  
suetudines fo-  
restæ anno 6.  
E. 1. artic. 3.

Ibidem ar-  
tic. 5.

**I**n reading of the newe ordinances of the Forrest, that were made and set forth in the sixt yeare of King Edward the first, which you may see in Rastals Abridgment of Statutes in titulo forest. 21. you shall often find these wordes *Infra regardum*, or, *infra rewardum*, which is all one, And also these wordes, *Infra metas forestæ*, and sometimes, in *forestæ*: and therefore you shall understand, that sometimes there may be a great difference betweene these wordes, *Infra rewardum*, and *infra metas forestæ*, for it may so fall out often times, that a thing is done *infra metas forestæ*, and yet the same be, *Extra rewardum forestæ*: but a thing cannot be done *infra rewardum forestæ*, but the same must of necessity be *infra metas forestæ*, Note the difference, as for example, in the third article of the said newe ordinances, the words there are these, *Si quis inuentus fuerit extra dominicum Boscum, & infra rewardum, psteruens quercum &c.* If any man shall be found cutting downe of an Oke, which is out of the Kinges owne woods, and yet within the regard, there these words, *Infra rewardum*, cannot be taken in any sence, but that the same must of force be *infra metas forestæ*: But contrariwise it is of these words, *infra metas forestæ*, as for example, in the fifth article of the same Ordinances, the wordes are these, *Si quis attachiabilis fuerit contra vad' & pleg', debet distringi per catalla sua infra metas forestæ inuenta &c.* If any man shall be founde attacheable contrarie to his suerties and pledges, he shalbe distrayned by his cattell found within the boundes of the Forrest: here, in this case, such an offender may haue cattell that are distrainable, which are *infra metas forestæ*, and yet they may be *Extra rewardum forestæ*,

foresta, as if such cattell were remaining in certaine woods or grounds, that the King by some charter hath exempted to be free from the burden and charge of the Forrest, so that although they are *Infra metas foresta*, yet they are *Extra rewardum*. Vide the same ordinances in titulo.

3. 4. 5. 10. 11. 12. 15. 17. 20.

I finde that in the time of Edward the first, when as Hugo Despenser was Justice in Eyre of all the Kings Forrests *Ultra Trentam*, when the perambulations of the Forrests were made, there were diuers woods within the limits and bounds of the Forrest, that were exempted out of the regard of the Forrest, as it doth appeare by their clames and charters, shewed and pleaded in sundry Iters.

In libr. Glasconia fo, 81.,

And I haue seene the like of diuers Forrests *Citra Trentam*, in the time of Edward the first, when Adam de Valentia Earle of Penbrooke, was chiefe Justice in Eyre of all the Kings Forrests *Citra Trentam*: So that sometimes it falleth out, that there are some woods that be within the bounds and limits of the Forrest, And yet they are no part of the Forrest, as in times past, Wall wood in Essex was, for the same was within the Forrest of Waltham, and yet not any part of the Forrest of Waltham, nor within the Regarde of the Forrest: So likewise Hauering Parke is *Infra metas foresta de Waltham*, but yet the same is out of the Regarde of the Forrest, and not any part of the Forrest. And likewise it is to be noted, that if a man haue a manner, whereunto doth belong a certaine wood, the which wood is within the compasse of the Forrest, so that the same is *Infra metas Foresta*, or, inuironed with the Forrest, the which wood is notwithstanding without the Regarde of the Forrest, In this case, by the Assises of the Forrest, he must make his claime by these wordes, *Gilbertus de Acton Clamat tenere Boscum suum de Trouesdale, ptenent ad manerium suum de B. extra regar-*

Itiner Pickering fo, 11.



regardum forestæ, viz, illum Boscum, qui est ex parte Boreali &c. And so to recite all the limits and boundes of the same very truely : But, all such woods and landes, as are parcell of the Forrest, the same is within the regard : And all such landes, as are within the bounds of the Forrest, and yet not any part of the Forrest, the same is out of the Regard, And this is the meaning of the same ordinances and Assises of the Forrest.

## Chap. viii.

- 1 Of the woods and couerts of the Forrest, and of their differences.
- 2 That the Lawes of the Forrest doe restraine every man, from cutting downe of his woods within his owne freeholde in the Forrest.
- 3 How, and in what sort, men may cut downe their woods within the Forrest.
- 4 What shalbe said to be wast by the Lawes of the Forrest.
- 5 What forfeiture and punishment doth grow to him that doth commit wast within the Forrest.
- 6 Whereof the same receiveth the name of wast.

- 1 Of the woods and couerts of the Forrest, and of their differences.



That hath already beene declared before, that every Forrest must of necessity be replenished with woods and great couerts, for the succour of the wild beastes both of Forrest and chace : and therefore the laws of the Forrest doth especially provide for the preservation of those woods

woods & couerts, whether they be the woods of the king, or the woods of any other person: So that, if any man haue woods within any Forrest, although that the soile, wherein those woods do grow, be his owne freehold, yet he may not cut downe nor sell his woods nor couerts there, & note that woods & couerts, are al one in some sence & significatiō, but in some sence & significatiō they do differ as thus, where the trees do grow scattering here & there one, so that those trees do not one of them touch an other, such places are called woods, but they are not properly to be called couerts: For, couerts are those woods, that are thickets and full of trees, which the Latinists do cal Impeditissime siluæ: And Cicero doth cal a wood, that is a couert for Deere, Latibulū in one place, & in an other place he calleth the same Dumetum: Budæus doth sometimes call the same Vmbraculum, the old Forresters do cal the same Couerts, as a word of art, for, as they do call all the trees in the Forrest, vert a viriditate, of greenness, so they do likewise call all those trees and woods, that are thicke & full of trees, Couerts, deriuing the same from the French word Couvert, which in English is properly a Secret hiding place for the Deere, to hide them in, vnder the greene vert.

Virgill.  
Cicero.  
Budæus.

- 2 That the lawes of the Forrest do restraine euery man from cutting downe of his woods within his owne freehold in the Forrest.

**A**nd that a man may not sell, nor cut downe, his owne woods being within the Forrest, it doth appeare by a Case adiudged in the time of king E. 1. that by the lawes of the Forrest, no man may cut downe his woods, nor destroy any couerts, within the Forrest, without the view of the Forrester, and licence of the Lord chief Justice in Eyre of the Forrest, although that the soile, wherein those woods do grow, be a mans owne freehold.

Fitzherbert  
abridgmet in  
trespass, 239.

¶

And



M.9.&10.El.  
Plowd. Com.  
fo. 332. b.

And also, in An.9.&10.Eliz. I do find one speciall Case concerning the selling of woods within the Forrest of Walchā, which Case is as followeth, Wray, saith, that, if a man, no? which is within a Forrest of the kings, as of Walcham, do escheat vnto the king, & afterwards the king do giue that manner vnto an other in fee, he hath not, in the gift of the manner giuen vnto him, the libertie, that he himselfe had in the manner touching the Forrest, for neuer thelesse the same is within the Forrest, and subiect to the feed of the Deere, & wild beasts of the Forrest, he cannot cut downe his woods that are there within the Forrest, without licence of the Iustice of the Forrest, for that is a thing collaterall to the soyle, and so, in the gift of the soyle, a thing collaterall to the soile, as things of prerogatiue, or a libertie, cānot passe: By which case you may note, that no man can haue any māners or lands within the Forrest, but that they must be subiect to the lawes and bondage of the Forrest, vntesse that by some good title they be specially exempted out of the same, for the king must haue his wild beasts maintained for his delight, which cannot be kept & preserved without coverts and secret places for them to rest and abide in. And therfore the king hath a prerogatiue ouer the woods of euery man within the Forrest, that no man may sell or destroy his owne woods, without licence of the Iustice of the Forrest. It appeareth by the new Ordinances of the Forrest, that were made in An.6.E.1.articulo 6.in these words, Liberatio autem housebote & haybote fiat, prout Boscus pati potest, in statu quo est, & non ad exigentiam petentis, nec potest aliquid dare nec vendere de Bosco sine warranto domini Regis, but lyuerie of housebote and haybote shalbe made, as the wood may suffer the same to remayne in the same state in which it is, & not at the request of the demandant, neyther may he giue or sell any thing of the wood without the kings warrant, by which law, it doth appeare, that

Vide Rastals  
abridgment  
of statutes in  
tiulo forest.  
21,artic.6.  
Ibidem.

that a man may not take housebote, nor haybote, but by deli-  
 uery of the Forresters, nor yet giue nor sell any of his  
 wood without warrant of our Lord the king, or of his Ju-  
 stice in Eyre of the Forrest. And also by the statute of An-  
 no 1.E.3. it is plaine, that no man in the Forrest may take  
 or cut downe any wood, without the view of the Forres-  
 ters, or licence of the Justice of the Forrest, although that  
 it be in his owne Freehold, for the words of the Statute  
 are these, Every man, that hath woods of his owne within  
 any Forrest, may take the same wood without being at-  
 tached by any Officer of the Forrest, so that he do it by the  
 viewe of the Forresters, therefore without the viewe of  
 the Forresters he can not do it: And there is great rea-  
 son, that it should be so, for the Forrester doth know the  
 want or plentie of other couerts neere vnto it, and if vpon  
 the viewe of the Forrester, he shall find that there are other  
 sufficient couerts neere at hand, he may the better suffer  
 some one particuler small porcion vpon his view to be cut  
 downe for housebote & haybote, but he can giue no licence  
 to cut downe any wood, for if it be for to sell any couert,  
 the Lord Justice in Eyre must giue licence for the same, for  
 no man els can do it, but the king onely.

Anno 1.E.3.  
 cap.2.

If any subiect, that hath any wood within the Forrest, if  
 his woodward do make default at any Justice seat, his wood  
 shalbe sealed into the kings hands, & so it shal remaine vntill  
 he haue repleuied the same & made his fine. If any man do  
 take any hauks, or destroy Aires of hauks, in the R. woods,  
 they shal make fine for the same. Itē that at euery Justice  
 seat of y Forrest, the number of trees, y haue bin giuē away by  
 good warrāt or otherwise, & also the wind fells, must be pre-  
 sēted. Likewise the profit of paunage, rushes, fearne, gozse,  
 Sedges, & such like must be presented there, but all this is  
 vnderstood of the kings owne woods or wast soyle. By the  
 assises of y Forrest, the chief Forrester must make accōpt of

Itiner Law-  
 cast. fo. 7.

Ibidem.

Ibidem.



Pickring fol. 187. all the trees that haue beene felled, and by what warrant they were cut downe, & for those, for which he cannot shew good warrant, he shalbe amerced.

Pickring fol. 10. If the owner of any woods within the Forrest, do appoint a woodward, where there neuer was any before, it is fineable Per assisas Forestæ.

In Casu Mel-  
la Pickring  
fol. 10. If any man do make charcoales of Brousewood within the Forrest, it is fineable: And if he will make title so to do by prescription, and do not make his claime thereunto, the first day of the Iustice seat, he shall then answer for the value of the coales to the king.

Assisa Pick-  
ring fol. 19. The Lord of a Forrest may enter by his officers into any mā's wood, the which is growing within y<sup>e</sup> regard of the Forrest, & cut downe Brouse wood for the Deere in winter.

Itin Pickring  
fol. 148. It appeareth in the Assises of Pickring, that Belsa claimeth within his woods in the Forrest, to haue the aires of Faucons, Harlens, & Sparohaukes, & not withstanding the letter of the great charter of the Forrest, it was inquired of by the ministers of the Forrest, whether he had vsed to haue the same, or not: And y<sup>e</sup> like claime was made by Gilbert of Acton, vide Cartā de Foresta, Art. 13. for it seemeth by the words of the charter of the Forrest, that euery free mā shall haue win his owne woods, Aires of Hawks, Sparow hawks, Fawcons, Eagles, & Heron, & shal haue also the hony, that is found within his woods, but it seemeth that the cause, why y<sup>e</sup> ministers of the Forrest did enquire, whether he had vsed to haue the Aires of haukes, or not, was, because that non vsur is cause of seisure, so y<sup>e</sup> not withstanding the charter, if he had not vsed the liberty, the same must be seised into the K.  
An. 8. E. 3.  
Carta de Fo-  
resta ar. 13. hands.

3 How and in what sort men may cut downe their woods within the Forrest.

**T**he Law being already declared, that no man may cut downe his owne woods within the Forrest, which is a very

very great bondage, it is requisite also to shew what remedy there is to be had in this behalfe, to the end that men may know how to relieue themselves, wherefore if there be any man, that hath woods within the Forrest of his owne, that he would sell, and cut downe, then let him take this course: First, let him repaire to the Lord chief Justice of the Forrest, and there shew vnto his Honor, what his request is, and hereupon the Lord chiefe Justice of the Forrest, vnderstanding his suit, will cause a writ of Ad quod dampnum to be directed to the chiefe warden of the Forrest, or to his Lifenant in these words, Elizabeth, dei gratia, Angl<sup>i</sup>, Frācia, & Hibern<sup>i</sup> Regina, fidei defensor &c. Dilecto & fideli suo I.V. custodi Forestæ suæ citra Trentam, Salutem: Mandamus vobis, quod per sacramentum tam Forestariorum & viridariorum forestæ nræ de I, quam aliorum proborum & legalium hominū de partibus illis, p quos &c. inquiratis, si sit ad dampnum seu nocumentum forestæ nræ prædictæ, aut alicuius alterius, si concedamus, R. B, quod ipse arbores in Bosco suo de M, qui est infra metas Forestæ nostræ prædictæ, succidere, & eas, quo voluerit, cariare, ac comodum suū inde facere, & solum illud postmodum asfertare, & in culturam redigere, ac paruo fossato & bassa haia, secundum assisam Forestæ, includere, & illud sic assertatum, in culturam redactum & inclusum tenere possit sibi & heredibus suis imperpetuum, necne: & si sit ad dampnū seu nocumentum dictæ Forestæ nræ, aut alicuius alterius, tunc ad quod dampnū, & quod nocumentum Forestæ nræ prædictæ, & ad quod dampnū & nocumentū alicuius alterius, & qualiter, & quo modo, & quantū Boscus ille continet in se per numerum acrarum, & quantum quælibet acra per se valeat per annum in omnibus Exitibus, & quantum Boscus ille distet a cooperto Forestæ illius, & si sit ibi frequens reperium ferarum nostrarum necne, & inquisitionem inde distincte &c. By vertue of which writ, the chief

In Registro  
breuium fol.  
257.



Warden of the Forrest, or his Lifenant, will forthwith cause the Forresters, Clerderers, and other honest sufficient and lawful me dwelling within the Forrest in those parts, whereas the same wood is, vpon their Othes diligently to inquire, and certifie the king in his Court of Chauncerie, in these ten points following :

- 1 Whether the cutting downe of the same wood, wilbe any hurt or anoyance to the Forrest of the K. or not.
- 2 Whether it wilbe any hurt or anoyance to any other person, or not.
- 3 What hurt and anoyance it wilbe to the Forrest of the king.
- 4 What hurt & anoyance it wilbe to any other person.
- 5 How and in what manner the same wilbe any hurt or anoyance to the Forrest of the King.
- 6 How and in what manner the same wilbe any hurt or anoyance to any other person.
- 7 How much the same wood doth containe by the number of Acres.
- 8 How much euery acre is worth by the yeere.
- 9 How farre the same wood is distant from any other couert of the Forrest.
- 10 Whether the wild beastes of the Forrest do hunt or frequent the same wood, or not.

And then, when the Forresters, Clerderers, and the other lawfull men of the Forrest, haue viewed the same place, and haue diligently inquired of euery one of these points, and made certificate thereof, vnto the King in his high Court of Chaucerie, or vnto the Lord chief Iustice of the Forrest, if it do appeare by their certificate, that the same wood may conueniently be cut downe, without anie great hurt, to the kings Forrest or to any other person, and that the certentie of euery Article aforesaid is also certainly knowne, the Lord chiefe Iustice of the Forrest may graunt, vnto the  
eluer

owner of the same wood, licence to fell the same: but, before that he haue any such licence granted him, he must come before the Lord chief Justice of the Forrest, & there be bound vnto the Queenes Maiestie by recognizance, knowledges before him in a certen some of money, that from the time of the felling and cutting downe of the same wood, during the space of seuen yeeres next after, he shall fence and keepe the same with sufficient hedging and ditching, so that the same may thereby be well and sufficiently preserved from the hurt of Deere or any other cattell.

And here note, that by the Statute of 27. of Edw. 4. 22. E. 4. ca. 7. men may make great & speciall fences about their woods, to preserve & keepe them, after that they haue felled them, untill that they be growne againe: And, whereas in the writ of Ad quod dampnum before recited, the words are *ac paruo fossato, & bassa haia, secundum assisam Forestæ includere*, which is, and with a small ditch, and a lowe hedge, to inclose the same, that is not meant nor intended of the fencing and inclosing of woods, as it doth appeare by the words there, but only of such, as were once woods, & are afterwards asserted & made tillage, and then indeed the same must not be inclosed in any other sort, but with a small ditch and a lowe hedge according to the Assises of the Forrest.

For the auoiding of too great charges, & also of further trouble to those parties, that do sue for such licences to cut downe their woods within the Forrest, the Lord chief Just. of the Forrest doth take a shorter course, which is, to graunt out a warrant vnder his hand and seale of Office, directed to the officers of the Forrest, in the very same nature, & in those words, that the foresaid writ of Ad quod dampnum is, but yet, for that that the writ of Ad quod dampnum is the best, and the most perfectest example, therefore I haue here set the same downe, and the speciall points of it, in a short order, as before you haue already seene,



But yet you must here vnderstand, that, albeit a man do obtayne of the Lord chiefe Iustice of the Forrest, a licence for the cutting downe & felling of his woods, yet he must p̄serue and keepe them with fencing & inclosing, so, that they may growe to be woods and couert againe in a short time, so that, when they are come againe to be woods and couerts, then his neighbours may likewise haue licence to fell some of their woods: For he, that hath a licence for the felling and cutting downe of his wood, hath not a licence to destroy the same, except that he do obtayne a speciall licence to cut downe the woods, and to assart the place, and to turne it into tillage, according to the president of Ad quod dampnum before recited.

4 What shalbe said to be wast by the lawes of the Forrest.

**A**ND, euen as to cut downe the woods in a mans owne Freehold, that do growe scattering here and there, is punishable by the Lawes of the Forrest, without licence of the Lord chiefe Iustice in Cire, or vewe of the Forresters: so to fell or cut downe any couert or couerts of woods in the Forrest without licence, although that the same be growing in a mans owne lands of inheritance, is so great an offence to the Forrest, that the same not vnworthily taketh the name of a wast of the Forrest. For, to fell, and cut downe the Woods, that are Couerts of the Forrest, without licence so to do, is to wast and destroy the Forrest: And therefore to fell a couert of the Forrest without licence, is called a wast of the Forrest: Wherefore, much more then, if a man doe destroy a couert of the Forrest, the same is a wast of the Forrest. For euerie destruction of a couert of the Forrest is a waste of the Forrest,

M. Hesketh in  
his reading of  
the Forrest  
fol. 20.

Forrest, but euery wast of a couert of the forrest is not a destruction of the couert but only for a time, for a man may sell the woods of a couert, and destroy the couert for the time, and yet preserve the woods, so that the same may in time come to be a couert of the forrest againe: but to destroy the woods of a couert of the forrest, is so to wast the same, that they will neuer come to be a couert any more. And therefore, a wast of the forrest, and a destruction of the forrest, are two thinges, and for that cause in the Assise of the Forrest of King Henry the second, called the Assises of Woodstocke, there is a speciall prouision made, aswell for the one, as for the other, in these wordes, defendit dominus Rex, quod nullus donat vel vendat aliquod ad destructionem Bosci sui, vel ad vastum, si sit infra forestam regis, Scilicet infra regardum, Our Lord the King commandeth, that no man shall giue or sell any thing to the destruction of his woods or couerts, or to the wasting of them, if they be within the kings Forrest, that is to say, within the Regard, but our Lord the King doth graunt that it shall be lawful for euery man to take that, which shalbe needful for them of their owne woods, without making of wast, that is to say, without wasting of the couert of the Forrest: So that euery man, that hath any woods within the Forrest, that are any couerts for the Deere, they, that are the owners of them, are inhibited by that Lawe, either to wast or to destroy those woods or any part of them. And if a man doe sell his woods, which are couerts within the Forrest, without licence, And yet doth so inclose, and fence those woods round about, that they are well preserved to growe againe, and that in a short time, then that shall be a wast of the Forrest, for as much as the couert of the forrest is thereby lessened and wasted, but it is not a destruction of the forrest, because the woods are not utterly destroyed, but preserved to grow againe, For, as it is holden at the com-

mon

*Assisa forestarum  
H. 2. facta apud Wood-  
stock artic. 1.*



Termino M.  
20.H. 6. fol.  
1. pl. 5.

In libro in-  
trationis fol.  
616, in wast  
1,

Afsis forestæ  
de Pickring  
fol. 24.

Afsis forestæ  
de Pickring  
fo. 25. 26.

mon Lawe, that, if a Tenaunt for terme of life doe cutte  
downe woods, and sell them, that is a wast, although  
that the same woods doe growe againe: Euen so it is  
by the Forrest Lawe, that if a man doe cut downe a co-  
uert of the Forrest without licence, the same is a wast of the  
Forrest, although that the couert doth grow againe, for as  
much as the same felling of the couert, doth for the time  
cause the exile and banishment of the wilde beastes from  
that place. But if a man haue a licence to sell his woods  
within the Forrest, which are couerts, and afterwards,  
when he hath felled them, he doth not inclose, nor fence  
them about, to preserve them to grow againe, by reason  
wherof the woods are eaten with cattell, and destroy-  
ed, so, that they can neuer growe any more, then this is  
saide to be a wast and destruction of the Forrest. And in  
like manner it is, If a man hauing a licence to sell his  
woods, and he doth sell them at such vnseasonable times,  
that they doe thereby die, and growe no more to be a co-  
uert of the Forrest, this shall be said to be a wast and de-  
struction of the couert of the Forrest: And as we doe vse  
to say in our pleading at the common Lawe in an action of  
wast, Idem R. P. fecit vastum, venditionem, & destructio-  
nem &c. ad exhereditationem ipsius A. B. So likewise in  
an Indictment against an offender, for destroying of a co-  
uert in the Forrest, the president is thus, quod Iohannes  
Melfa de Preston &c. Succidit Boscos suos de Trouesdale  
infra forestam de Pickring, sine warranto domini Regis, ad  
vastum & destructionem Cooperti eiusdem forestæ, & ad  
exilationem ferarum domini Regis. But if the woods of the  
couerts be cleane destroyed, so that they cannot grow againe  
to become couerts, or a couert of the Forrest any more, then  
the president is thus, quod I. M. vastauit & destruxit boscos  
& Coopertum eiusdem forestæ in Trouesdale &c. ad de-  
structionem eiusdem Bosci & Cooperti imperpetuū, & ad  
mag-

magnam exilationem ferarum domini Regis : both which presidents do proue, that a wast of the Forrest, and a destruction, are two different things in some sence.

And as at the common law, if a tenant for terme of yeres doe willingly suffer a meadowe to be drowned with water, whereby the same doeth become full of rushes and barren, or, if he doe plowe by his meadowe ground, and make the same arrable land, that is said to be a wast: so likewise, if a man, hauing a meadow ground, or pasture, lying within the Kings Forrest, without the couerts of the Forrest, and the owner of the same doth plow by his meadow or pasture ground, that hath not bene vsually plowed nor sowed before, and so conuert the same into tillage, this shalbe said to be a wast of the Forrest. Item, if the people of a whole towneship doe make wast in the greene betw of the Forrest, the whole towneship shalbe fined for the same, viz. *de villata de C.xx.s.*

M. 20. H. 6.  
fo. 1. plac. 5.

M. Heskett in  
his reading of  
the Forrest  
fo. 20.

And euen as at the first, Forrests were not made, nor appointed, but where great woods and couerts were, so to fell or destroy the couerts of the Forrest, is a wast of the Forrest, and punishable by the lawes of the Forrest. And it is to be vnderstood, that there is a great difference betweene a wast at the common lawe, and a wast by the forrest lawes: For by the common lawe, no man is punishable by an action of wast, but hee that hath a particuler estate, as tenants for terme of life, or for yeares, and such like, and that is onely by him that hath the inheritance in the same: but by the Forrest Lawes, if hee, that hath estate of inheritance in the lande, doeth make a wast of the Forrest in the same, he is punishable therefore, by the King himselfe onely, and not by any other person.



§ The forfeiture and punishment of such as commit  
wast within the Forrest.

**H**aving already declared, what a wast of the Forrest is, it is necessary also, to declare, what forfeiture and punishment, the Lawes of the Forrest doe inflict vpon him, that doth make a wast of the Forrest, and how and in what maner he is to be punished for the same. And for that, you shall vnderstand, that if a man doe make a wast of the Forrest by the destroying of any couert or wood, then the whole wood or place so wasted shalbe seised into the kings hands, and so it shall remaine vntill such time, that the owner of the same haue repleuied it, and made his fine for that offence.

Anno 8. E. 3.  
Pickring. fo.  
22.

Item if any man doe offend in cutting downe of bert, or for the wasting or destroying of any couert of the Forrest, and afterwards he dieth before any presentment be made thereof, yet in this case the king shall be answered for that trespassse or wast, for, the place, wherein the trespassse or wast was done, shall be seised into the Kings hands, and there it shall remaine vntill such time, that the heire of the trespasser shall repleuy the same, and make his fine for that offence.

M. Hester in  
his reading of  
the Forrest  
fol. 20.

Item, if a man doe plow a meadowe within the Forrest, and conuert the same into tillage or pasture ground, that hath not beene plowed before, without lycence of the Lord chiefe Justice in Eyre, and afterwards, before any presentment made thereof, he doth die, then the same meadow or pasture, so conuerted into tillage, shall be seised into the kings hands, and there it shall remaine, vntill such time, that the heire shall repleuy the same, and make his fine for that offence: so that, as I doe take it, he that doth commit a wast within the Forrest, doth not therby forfeit the place, wherein

wherein the wast was made or done, but only that the same shalbe seised into the Kings hands vntil that he haue made his fine for the same: but if he will not make his fine to the king for the same, then the king shall haue the same stil, vntill that the owner thereof, or the heire of the offender, shall make his fine to the king for that offence. And it is to bee understood, that there is no certaine fine set downe for the same by the Lawes of the Forrest, but onely that the same fine is arbitrable at the will and pleasure of the king or his Justice in Eyre, at as much and as little, as it shall please the king or his chiefe Justice in Eyre of the Forrest. And therefore in an Indictment or presentment made of a wast of the Forrest, the number of acres, that the place wasted doth containe, is alwayes specified and declared, for commonly the Justice in Eyre doeth aslesse the fine for such a wast, according to the number of acres that the place wasted doth containe, and therefore the valewe of euery acre is also to be set downe in euery presentment or Indictment of a wast of the Forrest. And in euery Indictment or presentment, that is made of any wast of the forest, these things are specially to be remembred.

- 1 Who made the wast.
- 2 What maner of wast the same was.
- 3 When the same was done.
- 4 Where the ground doeth lie, wherein the same wast was made.
- 5 In whose tenure the same now is.
- 6 What number of acres the same doth containe.
- 7 What euery acre is worth to be sold.
- 8 Whether the same be a wast onely, or a wast and destruction of the couert.
- 9 In whose fee the same is, and in what parish.
- 10 Whose inheritance the same is.



6 Whereof it is called *Wast*.

**A**nd where as we doe vse to say, a wast of the Forrest, it is to be vnderstood, that this word *Wast*, is taken in the same sence, that a spoile is, for a wast of the Forrest is as much by common intendment, as to say, a spoile of the coverts or pasture of the Forrest, for this word *Wast* is a word chiefly in vse amongst Lawyers, & was brought into this land by the Normans, being deriued from the french verbe, *Gaster*, id est, *Vastare*, to wast: for we English men, do often times vse to pronounce a *W*. in steed of a *G*. in many words, that we doe borrow of the French tongue, as for example, where the french word is *Gardien*, or, *Gardienne*, we say, A warden, and whereas the french worde is *Garderobbe*, we say, a Wardrobe, and whereas the french word is, *Garranne*, we say, a Warren, as a warren of Conies, and such like: And so likewise, whereas the french word is, *Gast*, we say, a *Wast*, as a wast of the Forrest, and *Gastebois*, is he that doth wast and spoile woods, *Gaster* & destruire, id est, *vastare*, *euastare*, vel *deuastare*, to wast to spoile or consume, and so a wast of the Forrest, is a spoile of the Forrest, And thus much concerning *Wast*.

## Chap. ix.

- 1 *Of Assarts of the Forrest.*
- 2 *What shalbe said to be Assarts, or, Land Assarted.*
- 3 *What forfeiture or punishment doth grow to him, that doth commit an assart of the Forrest in his owne woods or landes.*
- 4 *What forfeiture or punishment doth grow to him, that doth make assarts within the Kings demesne woods or landes.*
- 5 *Whereof the same receiueth the name of Assarts.*

1 Of

## 1 Of Affarts of the Forrest.



Then as a Wast, by the lawes of the Forrest, is accepted one of the greatest offences or trespasses that can be done to the Vert of the Forrest, because the same is a felling down, or, destroying of the thickets and couerts of the Forrest, that is to say, the vert or Greene hewe, be it great wood or vnderwood, Bushes, Thornes, or any couert that beareth greene leafe: So likewise an Affart of the Forrest, is the greatest offence or trespassse of all other, And there is none like vnto it, that can be done vnto the vert of the Forrest. For, euery affart of the Forrest, doth containe in it a wast and destruction of the vert and couert of the Forrest, and more, For, whereas a wast of the Forrest is but the felling or cutting downe of the couerts, which may grow againe and become couerts in time, An Affart, is the plucking vp of those woods by the rootes that are thickets or couerts of the Forrest, to make the same a plaine or arrable land, so that, whereas woods or thickets or any other land is affarted, that land cannot grow againe to become couerts, And therefore the same, being more then a wast of the Forrest, is called an Affart, as hereafter more at large shalbe shewed.

## 2 What shalbe said to be Affarts, or land affarted.

But to declare particularly, what an Affart of the Forrest is, and what shalbe said to be an Affart of the Forrest by the Forrest Lawes, I must refer my selfe to the Reede booke



In lib. Rubro  
Scaccarij.

Vide Maſter  
Heſket fol.  
20. accor-  
dingly.

Vide le Regi-  
ſter fo. 257.

booke of the Erchequer, where the wordes are theſe, quod  
aſſarta vero occaſiones nominantur, quan- do ſcilicet foreſte  
nemora vel dumeta, paſcuis & latibulis ferarum oportuna,  
ſucciduntur, quibus ſuccifis, & radicibus evulſis, terra ſub-  
uertitur & excolitur. Clerely, when that the pleaſant woods  
of the Forreſt, or, thicke buſhie places meete for the ſecret  
feeding of the wilde beaſtes, be cut downe, deſtroyed and  
plucked vpp by the rootes, and the ſame ground made a  
plaine, and turned into arrable land, this by the lawes of  
the Forreſt is properly ſaid to be an aſſart of the Forreſt, or,  
land aſſarted. And likewise it doth appeare by the writ of  
ad quod dampnum in the Register, where a man doth ſue  
for a licence to fell and cut downe his woods, that are with-  
in the Forreſt, and to aſſart the ſame, That an Aſſart is,  
where a man doth fell and deſtroy his woods, and conuert  
the ſoile, wherein the woods did grow, into tillage: For  
the wordes of the writ are theſe; Mandamus vobis, quod per  
Sacramentum &c. Inquiratis, ſi lit ad dampnum, ſeu no-  
cumentum foreſtæ noſtræ prædictæ, aut alicuius alterius, ſi  
concedamus A. quod ipſe arbores in Bosco ſuo de M. qui  
eſt infra metas foreſtæ noſtræ prædictæ, Succidere, & eas,  
quo voluerit Cariare, ac commodum ſuum inde facere, &  
ſolum illud poſtmodum aſſertare, & in culturam redigere,  
ac paruo foſſato & baſſa haia, ſecundum aſſiſam foreſtæ in-  
cludere, Which is, that we commaunde you, that by the  
oath of &c. you ſhall inquire, if it be to the hurt or anoyance  
of our Forreſt aforeſaid, or to the hurt or anoyance of any  
other man, if we doe graunt lycence vnto A. that he may  
fell and cut downe the woods and trees that are growing  
within his wood of M. which is within the lymittes and  
bounds of our Forreſt aforeſaid, and to carry thoſe whither  
ſoeuer he will, and to make his profit thereof, & that ground  
afterwards to aſſart, and to conuert into tillage, and with a  
ſmale ditch and a low hedge according to the Aſſiſes of the  
For-

Forrest to inclose the same: So that by this it doth appeare, that an Assart of the Forrest is, where as a man doth destroy any Couert, and conuert the same into Tillage, and here by this writ a man may note a great difference betweene, fencing in, and inclosing, of arable land, or pasture, and woodes, or couerts: for, whereas a man hath woodes or couerts within the Forrest, he may inclose the same round about with high hedges and ditches, to preserve them from the hurt of cattell, untill that they be past the danger or hurt of Deare, or other cattell to destroy them, but arable land nor pasture, being within the Forrest, must not be inclosed with great ditches, nor high hedges, but cum paruo fossato ac bassa haia secundum Assisam forestę, with a smal ditch and a low hedge according to the Assises of the Forrest: So that, if a man obtaine licence at the hands of the king, or of his Justice in Eyre, to destroy a couert of wood within the Forrest, and to assart the same, he may not afterwards inclose the same, being assarted, with great ditches and high hedges, as he might haue done before, when that the same was a couert of the Forrest: But then, he must inclose it with a litle ditch & a low hedge according to the assise of the Forrest: So that, if a man haue woods or underwoods, or any other couerts of the Forrest, as heath, brome, ferne, or such like, if he do cut them downe & pluck them vp by the roots, so that the bushie lands, where they did grow, or any other woods or couerts of the Forrest be thereby made plaine, or arable land, or pasture, then the same is called an Assart of the Forrest, or land assarted, although that the owner of the same receiue no profit by it.

M. Heskett  
fo. 20, and 21.

And it is said by Master Heskett, in his learned Reading of the Lawes of the Forrest: That if a man haue meadow or pasture ground lying within the Forrest, which meadow or pasture ground is inuironed round about with thick

M. Heskett  
fo. 20.



couerts of the Forrest, where the wild beastes of the Forrest haue their continuall haunt and abyding, if the owner or tenant, or other occupier thereof, do conuert the same meadow or pasture into Tillage, then that shall be said to be an assart of the Forrest or land Assarted. And the difference betweene a Wast of the Forrest, and an Assart, is this, that a Wast is but onely the felling or cutting downe of a couert of the Forrest without licence. And an Assart of the Forrest is the distroying of a couert to make the same a plaine or arrable land.

- 3 The forfeiture and punishment of such, as commit Assarts in their owne woods or lands in the Forrest.

**T**he forfeiture or punishment, that the Lawes of the Forrest do inflict vpon him, that doth Assart any woods or lands within the Forrest, is this, that the whole peece of ground, that is so assarted, be it in woodes, meadow, or pasture, or any other assart of the Forrest, shall be seised into the kings hands, and so it shall remaine in his hands, vntill such time that the owner of the same haue repleuied it, and made his fine to the king for that offence: And if any man do assart a couert of the forrest, without licence of the king, or of his Iustice in Cire, and afterwards, before any presentment made thereof, he that was the owner of the same that did so assart it, doth die, then the same land so assarted shall be seised into the kings handes, and there the same shall remaine vntill such time, that the heire shall repleuie it, and make his fine to the king for that offence: But if neither the heire, nor the owner of the land, will make his fine with the king for this offence, in this case, the king shall still  
detaine

detaine the land to hym for euer. But Master Hesket saith, that he, that doth make a Wast, or, an Assart of the Forrest, doth not thereby forsaie the place so wasted or assarted, but onely that the same shall be seised into the kings handes, untill that the owner thereof, or hys heire, haue made hys fine to the king for that offence. And so likewise it doth appeare by the Assises of Pickring, of Anno octauo Edwardi tertij, that all such landes, that were assarted, were seised into the kinges handes: but afterwarde they were redeemed by the owners thereof, by paying of their fine for the same. And it is to be vnderstood, that by the Lawes of the Forrest, there is no certaine fine set downe for the same, and therefore such a fyne is arbitrabile at the will and pleasure of the king, or of his Iustice in Eyre, at as much and as litle, as the king, or his Iustice in Eyre shall in discretion thinke meete. And in euery Indictment or presentment, made of any wast or assart of the Forrest, the number of acres, and also the value of euery acre, what the same is worth to bee solde, must of necessitie bee set downe, for commonly the Iustice in Eyre doth rate the fines for such offences, by the number of acres, according to the goodnes and value of the same. And in all Indictments and presentments of wastes and assarts, there are tenne thinges that are to be remembred, as already before hath been declared in the eight Chapter of Wast in the fifth Section.

And note, that in the new Assises of the Forrest of anno sexto Edwardi primi, articulo quarto, it is there ordained and appointed for a Law, Quod si quis inuentus fuerit in dominico domini Regis assertando, vel purpresturam faciendo, corpus debet protenus retineri: Si autem extra dominicum infra rewardum, debet poni per sex plegios: si autem alias inueniatur, debet

Assisa & consuetudines forrestarum artic. 4.  
Rastal titulo Forrests 21.  
anno 6. E. 1.  
cap. 4.



*duplicare eius plegios: si tertio, corpus debet retineri*, If any man shall be found in the kings owne demeasne woods or lands, assarting or making of any purpresture, his body shall be forthwith retained, but if any man shall so be found assarting or making of any purpresture without the kings demeasne lands or woods, in the woods or lands of any other man, being within the Regard of the Forrest, he shall be detained in safe custody, vntill that he shall be deliuered by sixe pledges, and if he be found afterwards so offending again, then he shall be detayned in safe custodie vntill that he shall be deliuered by twelue pledges, and if he shall be found so offending againe the third time, then his bodie shall remaine in prison, vntill that he haue made his fine with the king for that offence, and such an offender for the third offence is not by the Lawes of the Forrest bayleable by any man, but onely by the Lord chiefe Justice in Cire of the Forrest, or his Lieutenant in that behalfe.

And so note the difference betweene assarting of the kings owne woodes or landes, and the assarting of the woods or lands of other men: that he, that is found assarting of the kings demeasne woods or lands within the Forrest, is to be imprisoned for the first offence, without any bayle or mainprise for the same, vntill that he hath made his fine to the king for that offence, (except the Justice in Cire onely of his especiall fauour will deliuer him vpon Bayle) and he, that is found assarting in the woodes or landes of any other man being within the Regard of the Forrest, he is bayleable for the first offence, and for the second offence: but not for the third offence, for then his bodie shall be imprisoned, as aforesaid, vntill that hee hath made his fine to the king for the same: Except the Lord chiefe Justice in Cire of the Forrest of his speciall fauour will deliuer him vpon Bayle, as aforesaid.

It was adiudged in the Assises of the Forrest of Pickring, in anno octauo of Edward the third, in the case of the Prior of Saint John Ierusalem, that no man may assart or excoloz his woodes or landes, that he hath within the Regard of the Forrest, without the kinges speciall warrant so to do, and that, if any man do assart or excoloz his woodes or landes, that he hath within the Regard of the Forrest, he shall pay a grievous fine vnto the king for the same: And if he will haue the same to continue, then he may compound with the king, or his Iustice in Eire, to pay vnto the king a yeerely rent for the same, which must be entred of record at the time of the arrenting thereof.

Assisa forestæ  
de Pickring  
fol. 15. and  
fol. 18.

And likewise, it was adiudged in the Assises of the Forrest of Pickring, in the time of Edward the third, that he, that is presented to haue assarted or inclosed any land within the Forrest, out of the kings demesnes, in his owne fee, or in the fee of any other man, he shall make his fine for this offence, and if he will afterwards compound with the king, or the Lord chiefe Iustice in Eire of the Forrest, he may continue the same, paying vnto the king a yeerely Rent, which must be entred of record at the time of the arrenting thereof.

Assisa forestæ  
de Pickring  
fo. 7. and 10.  
11.

In the time of king Edward the first, and also of king Edward the second, and the third, when the Iustices of the Forrest did vsually hold their Iters, and Iustice Seates, for Forrests, it was no small benefit, that did yeerely increase and grow vnto the king, by the arrenting of lands that were assarted, and of purprestures of the Forrestes, ouer and besides the fines that were paid for them, and other such like trespasses: And thereby the Forrestes of the king were then also kept in order. But now of late, within these hundred yeeres, there haue been verie seldom any Iustice seat at all kept for Forrests. And when that there is any kept, the same is so slenderly performed, that



there is verie little, or no good at all, done thereby, for any reformation of any abuse of any matter concerning the Forrest: For, the records of the proceedings of the Forrest matters, are not orderly kept, nor returned into her Maiesties Court of Exchequer, as heretofore they haue been, whereby the rents, growing due vnto her Maiestie for such assarts, and purprestures of the Forrest, and other such like things, with the fines, that are assessed and not paid, and all Bonds, that are forfeited vnto the king for any matter concerning the Forrest, might in due course of law be leuied and gathered to the kinges vse: For now adayes, if it do chaunce, that a Iustice Seate be kept for any one Forrest, the same is seldom or neuer finished, but adiorned ouer vntill some other time, and then it becometh discontinued, and some few fines, or perhaps none at all, for any offence paid. And then, when the Iustice in Cire of the Forrest doth chaunce to die, the Records of the Forrest, remayning in some priuat mans hands, & not returned into the Court of the Exchequer, by some means or other, they are smothered, so that they do neuer come to light, and by this means, all the trespassers & offenders of the Forrest, for what trespass or offence soeuer it be, do go free & unpunished, which doth daily animate and incourage offenders in Forrests more and more, And doth also discourage the good Officers of the Forrest, that haue from time to time carefully discharged their duties in executing of their offices, to see all their paines & labor, lost, and to come to so smal effect: But if that the Iustices of the Forrest, would duely hold their Iustice seats, and cause perfect Records thereof to be kept: Or els, if they would cause the Records of their proceedings to be returned into her Maiesties Court of Excheq. wherby there might be execution of their proceedings, according to the Lawes of the Forrest, then the Forrest Lawes would be better known, and also  
more

more regarded, then they are now at this day. It is well known, that of late at a Justice seat holden for some Forrest that I do know, there were diuers men, that were convicted for the making of sundry purprestures in building of houses within the wast soyle of the Forrest, for the which they did then compound at the same Justice seat, to arrent the same by the yere, & afterwards, by reason of the death of the Justice in Eire, that then was, the Records of the same Justice seat were not retozned into the Excheq. nor yet elsewhere now to be found, those rēts haue neuer ben called for, nor yet paid, but are stil withhelden from her Maestie: And by reason now that there are no Records of the same to be found, no man doth know what rent the same was, & therefore no doubt, it is no smal hinderance vnto her Maestie, that the Records of the Forrest haue not ben duly kept, and retozned into the Court of Excheq. there to remain in perpetuam rei memoriam. But now to returne to my former matter again, where I left, hauing already declared, what for forfeiture or punishment, the Lawes of the Forrest do inflict vpon him, that doth assart his own woods or lands within the Forrest.

4 The forfeiture and punishment of such as make Assarts in the kings demesne woods or lands.

I Am now here to declare and set downe, what for forfeiture or punishment, the Lawes of the Forrest do impole vpon him, that doth Assart the Kings demesne woods or lands within the Forrest, without warrant for the same: And therfore you shal vnderstand, that by the new Assises of the Forrest, made in anno sexto Ed. 1. it is ordayned, Quod si quis inuentus fuerit in dominico dñi Regis, assartando vel purpresturā faciēdo, corpus debet protenus retineri, That if a man be found assarting or making of any purpre-

Assisa & consuetudines forrestæ anno 6. E. 1. artic. 4. Rastal in Forrestis 21.



Asifa forestæ  
de Pickring  
fol. 35. anno  
8. E. 3. in casu  
Gilberti de  
Acton,

sure in the kings demesne woodes or landes, his bodie shall forthwith be attached, and detained in prison untill that he haue made his fine to the king for the same. But it doth appeare by the auncient Iters of the Assises of Pickring and Lancaster both, that he, that doth make an assart in the kings owne demesne woodes or landes, being within the Forrest, shall be fined for the same at double as much, as he shall, that doth make either assart or purpresture in his owne woodes or landes: and yet in both those two cases, the fine for the offence in either of them is arbitrable at the will and pleasure of the king. But it is a more bold attempt, or rather contempt, to make an assart or purpresture in the kinges owne demesne woodes or landes being within the Forrest, and therefore worthy to be more seuerely punished for example sake, then he, that doth commit the like offence in his owne freehold: and for that cause, the Law doth allow him, that is taken with the manner, either making of an assart or purpresture in the kinges demesne woodes or landes, no bayle for the first offence, whereas he, that doth the like trespass in his owne freehold, or land, is allowed to be bayled for the first and second offence, but not for the third offence: And therefore by this it doth appeare, that the Law doth much lesse fauor the one of them, then it doth the other.

5 Whereof it is called Assarts.

**A**ND thus hauing already declared, what an Assart of the Forrest is, and what punishment the Law doth appoint for the same offence, aswell in the kings owne demesne woodes or landes, as in the woodes or landes of any other man: It is therefore now verie necessary to speak some thing here in this place, of the woord Assart, and whereof the same taketh his name of Assart. And for that

that, you shall vnderstand, that this woord Assart is an auncient English woord brought out of Normandy into this land, (by the Conquerer, as it seemeth) and is derpyued of the French verbe Assortir, to make plaine, or to furnish, or to trim by any thing: as when any land or ground is full of bushes, woodes, or thickets, being barren as it were in not bearing of cozne nor grasse, by reason that the same is so ouergrown with couerts, Then to destroy the same couerts, and to make the place arrable land to beare cozne or plentie of grasse, is called an Assart of the Forrest, of the French verbe Assortir, to make plaine, or to furnish: for, whereas the same was before a thicket of bushes or woodes, it is made a plaine smoth pasture or arrable land, and it is also furnished: for, whereas before the same was barren, when the same is so assarted or conuer-  
 ted into tillage, then it is furnished with cozne or with grasse. And of this French verbe Assortir, to make plaine or smoth, is derpyued this barbarous Latin woord Assarto, to pluck vp by the rootes, which woord I neuer read of in any good wyter, but onely in Budæus in his second book de Philologia, where he doth expound this woord Assart in this sort, assartare enim est densas syluas eradicare, & in culturam redigere, for to assart (saith he) is to roote vp thick woodes, and to bring the same to tyllage: so, by this it appeareth, that the woord Assart, is to destroy any couert by the rooting vp of the same, to make it to continue a plaine: The French woord that is now in vse for this matter, is, Arracher, which is eradicare, or eruncare. In the Register in the writ of Ad quod dampnum, there the woord is Assertare, not Assartare as Budæus vseth the same.

Budæus in 2.  
 libro Philo-  
 logia.



## Chap. x.

- 1 *Of Purprestures of the Forrest.*
- 2 *What shall be said to be Purprestures within the Forrest.*
- 3 *How many sorts of Purprestures there are.*
- 4 *What forfeiture and punishment there doth grow to him, that doth commit Purpresture within the demesne woodes or lands of the King.*
- 5 *What forfeiture or punishment there doth grow to him that doth commit Purpresture within his own woods or lands.*
- 6 *Whereof the same taketh the name of Purpresture.*
- 7 *What difference there is betweene Wast, Assart, and Purpresture.*

## I Of Purprestures of the Forrest.

**P**urpresture in a Forrest, is a trespassse so hurtfull and offensive to the Clerk and Clerikson of the same, that if there were not certain sharp lawes to inhibit it, and also to punish the offenders therein for example sake, Forrestes would in short time decay, and be no Forrests, by reason of Purprestures onely: For, as a Wast of the Forrest, is a mean to decay the same, by cutting down of the woodes and couerts: And an Assart, by destroying of woodes, and converting the land of the soyle into Tillage: so, a Purpresture is likewise another speciall means to

to decay a Forrest, by buylding & new erecting of houses and other inclosures therein : for, if it were lawfull for euery man, that is an inheritor of landes or tenements within a Forrest, to build and erect houses vpon the same at his will and pleasure, then euery Forrest would in short time become so populous, and so full of people, and houses, that the wild beastes of the Forrest could not haue any abode or being wythin any Forrest, by reason of the multitude of people and houses there : For, at the first, Forrestes were made in places that were not inhabited with people, and then afterwards by the kings especiall licence and fauour, some few men were admitted to dwel and inhabite in Forrests, and so by litle and litle, in time, Forrestes became populous : But yet by licence of the king onely, or by his sufferance.

We may read of some kings of this land, that, when they made Forrestes, they did pull downe both houses and Churches that were wythin the same, and so thereby caused an vtter depopulation of that place, for the quiet of the wild beastes : Then much more, if by the Lawes of this Realme, Kinges and Princes may pull downe houses and Churches, that are already buylded, to make Forrestes in such places, where they please to haue Forrestes : They may by the same Lawes, restraine and forbid all inhabitants, and all those that haue landes or woodes wythin Forrestes (that haue been auncient Forrestes along time) to new erect or buyld any more houses or buyldinges, then are already buylded there, wythout especiall licence of the king, or his Iustice in Cire : For, new erections and increasing of dwelling houses within Forrestes, are :

- 1 Ad terrorem ferarum, for that the sight of many houses in a Forrest, is a terroz to the wild beastes of the Forrest.

2 Ad



- 2 Ad nocumentum Forestæ, for that the pestring of the Forrest with many houses, are noysome to the Forrest: for that the people and Inhabitants will daily destroy and spoyle the vert thereof.
- 3 Ad superonerationem Forestæ, for that by reason of many houses, the Forrest must needs be surcharged with many Cattell.
- 4 Ad exilationem ferarum Forestæ, for that the multitude of people and their dogges do cause the exile of the the wild beasts from the Forrest.

Then therefore, what can there be in a Forrest, that may more decay or hurt a Forrest, then Purpresture, and the permission and sufferance of one purpresture in a Forrest doth cause many more purprestures to be made by reason of that one, and therefore in the good gouernement and care of preserving of Forrestes, there must be great regard had therein, for the auoyding of purprestures, least that, by the tolleration and permission of purprestures, the Forrests be soone spoyled and decayed. But now, before that I do speak any more of Purprestures, it is necessarie to declare, what a purpresture of the Forrest is.

2 What is a Purpresture within the Forrest.

**A**nd therefore you shall vnderstand, that a Purpresture of the Forrest, is most properly, wheras any man doth make any manner of Encroachment vpon the Kings Forrest, be it in buylding, inclosure, or by vsing of any libertie or priuiledge without lawfull warrant so to do, that is called a Purpresture of the Forrest. And in Libro Rubro Scaccarij titulo Accidentibus, ita est: scilicet, Quod purprestura fit interdum per negligentiam Vicecomitis, vel ministrorum Regis, vel per continuationem in longa tempora, vel bellicam tempestatem, vt qui habitant prope fundum

In libro Scaccarij in titulo de Accidentibus.

fundum Corone, vel adiacent, aliquam eorundem portionem sibi vsurpant, & suis portionibus ascribant, Cum autem per lustrantes Iudices per Sacramentum legitimorum virorum compertum fuerit, appreciantur, & Vicecomiti traduntur, vnde seorsim respondeat, & hanc dicimus purpresturam, vel, occupationem iniustam, which in English is this, In the Redd book of the Eschequer, in the title de Accidentibus, it is written, That Purpresture is sometime made by the negligence of the Shirife, or by the negligence of the kings Officers or ministers of the Forrest, so that by long continuance of time, or by warre, those, that do dwell neere to any land of the Crowne, or that are adioyning to the kings land, do vniustly take any portion thereof from the king, and do add the same to their owne land, But, when this matter is found out by the diligent examination of the Judges, and by the oath of good and lawfull men, then those Purprestures or lands, that were so taken from the king, shall be apprysed and deliuered vnto the Shirife againe, whereof he shal specially aunswere vnto the king: And this we call a Purpresture, or, the wrongfull occupatton of the land of an other man. And although that this place doth rather seeme to proue what is a Purpresture by the common Law, then by the Forrest Law, yet hereby it is plainly proued, that to make any incroachment vpon the king without warrant, or good title, is a Purpresture by the common Law, and euen so it is by the Forrest Law. And Master Hesketh sayth, That if any man take or incroch vnto himselfe any thing, that he hath no right vnto, that is a Purpresture. But it is thought that those woordes of Master Hesketh in that place are a litle too generall: for the taking of any thing, that a man hath no right vnto, is not alwaies said to be a Purpresture, but the taking away of certaine things, and in some sort shall be said to be

M. Hesketh  
fol. 20.



be purpresture, for here you must vnderstand Master Heskets meaning in these woordes, (take oꝛ inchoche vnto himselfe any thing,) as if hee had said, take vnto hym selfe any thing from an other man by inchochment, and you must also vnderstand hys meaning in this woord, (any thing) any landes oꝛ liberties: so that then by Master Heskets meaning, A Purpresture is, where any man doth take from an other by inchochment, any land, libertie, oꝛ iurisdiction, and doth wrongfully occupie the same. And with thys agreeth Master Ranulphus de Glanuill, a most learned Iudge of the common Lawes of this Realme, in his Booke that he wrote, called a Treatise of the Lawes and Customes of England, in the time of king Henry the second, in these woordes: *Dicitur autem purprestura vel porprestura proprie, quando aliquid super dominum Regem iniuste occupatur, vt in dominicis Regis, vel in vijs publicis obstructis, vel in aquis publicis transuersis á recto cursu, vel quando aliquis in Ciuitate super Regiam plateam aliquid edificando occupauerit: Et generaliter, quoties aliquid fit ad nocumentum Regij tenementi, vel Regie viae, vel Ciuitatis, placitum inde ad Coronam domini Regis pertinet: Verily, saith he, it is properly called Purpresture oꝛ Porpresture, when any thing is wrongfully inchoched vppon our Soueraigne Lord the king, as in the kinges demesne landes, oꝛ in streatning of the kinges highwayes, oꝛ in turning of the common waters from their right course, oꝛ when any man in buylding of any thing in a Citie doth inchoche vppon the kinges street oꝛ common high way: And generally, as often as any thing is done, which is to the annoyance of the kinges landes, oꝛ tenements, oꝛ of his high way, oꝛ of any Citie, this is Purpresture, and the plea oꝛ handling of this matter doth appertaine vnto the Crowne of our Soueraigne*

Ranulphus de  
Glanuill in li-  
bro 9. fo. 71.  
cap. 11.

raigne Lord the king. And so by this you may perfectly discerne and know, what by the Law is or shall be accompted or taken for a Purpresture.

And in the Assises of Lancaster, in anno duodecimo of Edward the third, it was there adiudged in the generall Cite of the Forrest, that the Assises of the Forrest are, that no man may inclose any ground wythin the Forrest ad nocumentum ferarum: And that if a man do make any such new Inclosures in any land wythin the Forrest, that the same is a purpresture of the Forrest. And that if any man haue a licence to inclose any ground within the Forrest, he may not inclose the same, cum alta haia & fossato, nec cum alto pallatio: for if he do, that is contra assisam forestę.

Assisa Lanc.  
castriz anno  
12, E. 3, fo. 6.

And it was there also adiudged, that if a man do buyld any house within the Forrest without licence, although that the same be wythin his owne free land, the same is a purpresture of the Forrest: And the iudgement of Purpresture is there set downe to bee this, Quod ipse in misericordia, & quod clausum prædictum proster-natur. And if he, that doth make purpresture, do graunt ouer his land, wherein the purpresture is made, both he and the grauntee shall be amerced for the same.

Ass. Lancast.  
anno 12, E. 3,  
fo. 6.

And note, that it appeareth by the claime of the Abbot of Periuall, in anno 12. Edward the third, in the Assises of Pickering and Lancaster, that wythin the Regard of any Forrest, no man may buyld any houses or barkaries.

And it was also there adiudged in the case of the Priour of Lancaster, that no man may buyld any new houses or barkaries wythin the Forrest, nor vse Tillage in any newe groundes, that haue not beene vsed to bee put to Tillage befoze, wythout especiall licence so to do.

Assisa Lanc.  
fo. 5. anno  
12, E. 3.

And



And also it appeareth there in the same Assises by a claime made by the Priour and Couent of Weryuall, that no man may make any buyldinges within the Forrests, (except he haue good warrant from the king, or from the Lord of the Forrest so to do,) for the Abbot in the case aforesaid made his claime by graunt, that he might make omnimodum commodum suum infra Forestam, sine assartando, & sine edificando, inodis omnibus: But by this it appeareth by his graunt, that to assart, and to make any purprestures of the Forrest were excepted, And therefore he might not do either of them.

Anno 7. Eliz.  
Dyer fo. 240  
pl. 45.

In Trinitie Terme in anno septimo of our most gracious Queene Elizabeth, it was cleerely resolved by the most part of all the Judges, and the Queenes Counsell, at Sergeants Inne, in the presence of the Earle of Sussex, then Lord chiefe Justice in Cire of all her Maiesties Forrestes on this side Trent, That the buylding of any new house within the seuerall soyle or wast of any man wythin a Forrest, is a Purpresture, and a noyance to the Forrest and game, And also finable, or els arrentable for the tolleracion or suffering of that to stand, which is at the iudgement and discretion of the Lord chiefe Justice in Cire of the Forrest, or otherwise to be plucked downe and destroyed at his will and pleasure. The foresaid Earle of Sussex, being Lord chiefe Justice in Cire of all the Forrestes on this side Trent, and being learned himselfe in the Lawes of the Forrest, yet, because that he would be the moze perfectly resolved, what was Purpresture by the Forrest Lawes, he caused the Judges aswell of the common Plees, as of the kings Bench, & all the Queenes learned Counsel in the Lawes of this Realme, to assemble them selues together at Sergeants Inne in Fleetestreat, and then there they deliuered this their opinion, as aforesaid, Sir Iames Dier being then chiefe Justice of the

the common pless, who of zeale, and fauour, that he did beare vnto the knowledge and learning of the lawe, did keepe a memoire of this Case, whereby the same came to be Printed in his booke of yeeres and termes, for the better instruction of others hereafter. Thus hauing sufficiently declared and proued, what is Purpresture by the Common lawes of this Realme, and also what is Purpresture by the Lawes of the Forrest, it is necessary also to declare the Species of Purpresture.

3 How many sorts of Purprestures there are.

**A**ND therefore you shall vnderstand that of those foresaid Purprestures, there are foure sorts of them, that is to say.

- |             |   |  |
|-------------|---|--|
| Purpresture | { | 1 Against the King onely.              |
|             |   | 2 Against the king & the commonwealth. |
|             |   | 3 Against the king and a comon person. |
|             |   | 4 Against a common person onely.       |

1 Purpresture against the King onely is, whereas any man doth new erect or build any dwelling house or any other house within the Forrest without licence, where there hath neuer bene any house before, although that the same be in his owne ground. This is a Purpresture against the King onely, and not against any other man, for this is no Encroachment vpon any man, but onely vpon the kings Forrest.

2 Purpresture against the king and the Common weale, is, whereas any man doth newe erect a House or Mill vpon the Kings high way, or wast soyle, within any Forrest, by reason whereof, the common passage of his Subjects is hindred. This is a Purpresture against the king and also against the Common weale, in like manner it is when a man doth newe erect a House or a Mill in his  
K
owne



owne land within the Forrest, which is to the hindrance or anoyance of the common passage of the kings subiects, this also is a Purpresture against the King and the Common weale.

3 Purpresture against the king and a common person, is, whereas any man hath certaine land inclosed, lying, within a Forrest, adioyning vpon the wast soyle of the Lord of a manner, and the owner of the same land encrocheth vpon the wast soyle of the said Lord of the manner, and by remouing of his hedge, taketh in parte of his wast soyle, and so wrongfully enlargeth his owne ground, this is a Purpresture of the Forrest against the King, to new inclose land that was not inclosed before: and this is also Purpresture against the Lord of the manner, for as much as parcell of his wast soyle is wrongfully taken in and inclosed.

4 Purpresture against a Common person onely, is, whereas a man hauing an auncient dwelling house, or an other house within the Forrest, and by enlarging of the same house, he doth incroch vpon the land of an other man, this is said to be a Purpresture against a common person onely, for that the same, being an ancient house before, might lawfully stand there, the king hath litle wrong by this incrochment, and so note that Purprestures in the Forrest are in these foure sorts.

And so you may see, that, where any man doth wrongfully encroch any thing vnto himselfe within the Forrest, eyther vpon the king, or vpon any other person, the same is a Purpresture. And if any man without good warrant do take vpon him any Iurisdiction or Franchise within the Forrest, that is also a Purpresture of the Forrest.

And if any man do hold a Faire or Market without the grant of the king or lawful prescriptio, that is also a Purpresture, and if any man do take in, or, inclose any of the kings

kings wast soyle within the Forrest, that is also a Purpresture, and if any man do build any Swinecote or Houell, vpon the kings wast soyle, or the wast soyle of any other man within the Forrest, that is also a Purpresture of the Forrest.

- 4 The forfeiture and punishment of such as commit Purpresture in the demeasne woods or lands of the king.

**T**he forfeiture and punishment, that the Lawe of the Forrest doth appoint for such offenders, as do make any purpresture in the kings owne demeasne woods or lads, within the Forrest, is, as before already hath beene declared for assarts, which is, that if any man be found making of any Purpresture in the kings demeasne woods or lands, that then his body shalbe forthwith detained in prison without bayle or mainprise, vntill that he hath made his fine with the king for the same offence, which fine as arbitrable at the will and pleasure of the king. And as Master Glanuil saith in his 9. booke and 11. Chapter. Et qui per Iuratum ipsam, aliquam huiusmodi fecisse Purpresturam conuictus fuerit, in misericordia domini regis remanet de toto feodo quod de eo tenet, &, quod occupauit, reddet, which is, that he, which shalbe conuicted by a Jury, to haue made any such Purpresture vpon the king, he shall remaine for the same at the kings mercie for his whole fee that he holdeth of the king, and the Purpresture, that he hath made, shalbe yeelved to the king also.

And so he, that doth make a Purpresture within any of the kings demeasne woods or lands within the Forrest, is fineable for the same at the Kings will and pleasure, and not at any certen fine. And you must needes thinke, that the Lawe entendeth a verie greuous fine to be laid vpon him,



him, that will attempt to make any Purpresture vpon the King in his owne demesne landes or woods, and therefore the fyne for a Purpresture is aggrauated and increased according to the qualitie and quantitie of the offence, and besides that, he, that is so fineable, he shall yeeld the place, vpon the which the Purpresture is made, to the king to whom in right it doth belong and appertaine.

- 5 The forfeiture and punishment of such as commit Purpresture in their owne woods or lands.

**T**he forfeiture and punishment, that the Lawes of the Forrest do inflict vpon him, that doth make anie Purpresture in his owne woods or landes within the Forrest, as before in Assarts hath bene already declared, is, that he, that is found making of any Purpresture, out of the Kings demesne woods or landes, within the regard of the Forrest, his body shall be attached and detained in prison, vntill that he be deliuered by sure pledges, and if he shalbe found offending so againe the second time, then his bodie shalbe attached and detained in prison, vntill that he shalbe deliuered by twelue pleges, and if he shalbe found offending so againe the third time, then his body shalbe attached and detayned in prison vntill that he shall haue made his fyne with the king for that offence, and in this Case, the offender is not bayleable by the law, by any man but onely by the Lord chief Justice in Eyre of the Forrest, of his speciall fauour and grace.

And in this case also, the fine is vncerten for such Purprestures, & arbitrable at the will & pleasure of the king according to the qualitie and quantitie of the offence.

And this note, that for euery Purpresture, that a man doth make in his owne landes or woods, that he hath with-

Assisa & con-  
suetudines  
forestarum An-  
no 6. E. 1.

Dyer 140.  
placi. 45.

he

in the Forrest, as in building vp of any house, whereas there hath not beene any befoze, there the iudgement is twofould, that is to say, first, that he shall pay a fine to the king for the making of the same Purpresture, according to the qualitie and quantitie thereof: And secondly, that the same house or Purpresture so made, shalbe pulled downe againe, or else to pay peerely a certen rent vnto the king, for suffering of the same to remaine still, which is at the choise and discretion of the Lord chiefe Justice in Eyre of the Forrest.

6 Whereof it is called Purpresture.

**T**his English worde Purpresture, which D. Glanvill calleth Purprestura, or, Porprestura in Latin, beyng but a new made Latin word, is deriued from the old French word Pourpris, which signifieth, to take from another, and to inclose vnto himselfe, or to incroche vpon an other. There is no such word in vse in the Latin tongue, as Purprestura is, but onely amongst Lawiers, which did first frame that Latin word of the foresaid French word Pourpris, for, that, which is called Pourpris in French, the Latinists do call Conseptum an inclosing together, or, an inclosure, and by vsage, this word Purpresture amongst Lawiers in the generall sence is now taken for any thing, which any man by wrong hath incroched vpon an other, and, by inclosure or vsage, appropriated vnto himselfe.

M. Glanvill  
fol. 71. lib. 9.  
Chap. 11.

7 The difference betweene *Wast*, *Affart*,  
and, *Purpresture*.

**S**ome men do hold an opinion, that the difference betweene Purpresture and Affarts is, that Purpresture is made vpon the woods or lands of the King onely, and Af-



Carta de Fo-  
resta artic. 4.

larts is made in the woods or lands of other men : but that is not so, for, a man may make Purpresture and Assarts also, aswel in the woods and lands of the king, as in the lands and woods of other men: And e contrario, Purpresture and Assarts may be made aswel in the woods and lands of other men, as in the woods & lands of the king. And that is proved by the words and meaning of Carta de Foresta articulo 4. where as the king by the said Charter doth graunt, that al Archbishops, Bishops, Abbots, Priors, Carles, Barons, Knights, and Freeholders, which haue their woods within Forrests, that they shall haue and enioy their owne woods, that they haue within Forrestes, in such sort, as they had them at the tyme of the first Coronation of King Henrie the second, which was before the making of the Charter.

And the King doth also there, by the same Charter, further graunt vnto them a generall pardon for euer, for all Purprestures, Wastes, and Assarts, made and done before the making of the said Charter in their owne woods, for, the words are there, Habeant Boscos suos, that is to say, they shall haue their owne woods &c. And afterwards the words of the pardon are, quod quieti sint imperpetuum de omnibus Purpresturis, vallis, & Assartis factis in illis Boscis, which is, that they shalbe quite for euer of all Purprestures, Wastes, and Assarts, which are made or done in their owne woods within the Forrest. Then both purprestures and Assarts may be made in the woods and landes of other men, aswell as in the woods and lands of the king, which is contrary to the opinion of M. Treherne, and also of M. Archer in their readings of the Lawes of the Forrest, which I do greatly maruell at, for it doth also most plainly appeare by the assises and customes of the forrest, which were made and established in Anno 6. E. 1. articulo 4. in these words: Si quis inuentus fuerit in dominico domini regis,

Assisa & con-  
suetudines  
forestæ art. 4.

assar-

assartando vel Purpresturam faciendo, Corpus debet protenus retineri, sin autem extra dominicum infra rewardū, debet poni per sex plegios, & si alias inueniatur, debet duplicare eius plegios, si tertio, corpus debet retineri, If any man shalbe found in the kings demeasne woods or lands assarting or making of any Purpresture within the Forrest, his body shalbe forthwith retayned in prison for that offence: But if any man shalbe found assarting or making of Purpresture out of the demeasne woods or lands of the king, in any other mans woods or lands being within the regard of the Forrest, the he shalbe deliuered by six pledges, and if he shalbe found offending againe in such sort the second tyme, then he shalbe deliuered by twelue pledges, but if he shalbe found so offending againe the thirde time, then his bodie shalbe forthwith detayned in prison for that offence without any Bayle or maynpysse &c. By which wordes, and meaning of the lawe it selfe, it doth appeare, first, that both, Assarts and Purprestures, may be made and done in the demeasne woods and lands of the King. And therefore the Statute hath appoynted an especiall manner of proceeding and punishment, onely, for such Assarts and Purprestures, as are made and done in the kings owne woods & lands, which is differing from the proceeding & punishment appointed for assarts & Purprestures made in the lands & woods of other men. And secondly, that both, Assarts and Purprestures, may be made and done in the woods and lands of other men, as well as in the woods and lands of the King, and therefore the same Statute hath also there set downe a manner of proceeding and punishment, for Assarts and Purpresturs, that are made and done in the woods and lands of other men, differing from the proceeding and punishment appointed, for such Assarts and Purprestures, as are made and done in the Kinges demeasne woods and landes, Ergo, it is not

Vide Rastals  
abridgment  
of statutes in  
forest. 21.



the lande of the King, nor the land of any other man, that doth make the difference betweene Assarts and Purpresture, seeing that both Assarts and Purpresture are made aswell in the Woods and Landes of the one as the other, and so to conclude, in both: But surely, the true difference betweene Assarts and Purpresture is, that Purpresture is a wrongfull Encroching of a newe thing, that was not before, vpon the King or a common person: And Assarts is, the conuerting of any covert of the Forrest into arable lande, as already before hath bene declared. And because that euerie Purpresture of the Forrest is syneable at the will and pleasure of the King, according to the qualitie and quantitie of the same offence, therefore to thend that the manifest truth may in euery poynt the better appeare, it is necessarie, that in all presentments and Indictments of anie manner of Purpresture, that shalbe made or done within the Forrest, they do containe the certenty of these ten points hereafter following:

- 1 Who made the Purpresture.
- 2 What manner of Purpresture the same is.
- 3 When the same was done.
- 4 Where the ground doth lie wherein the Purpresture is made.
- 5 In whose tenure the same now is.
- 6 What quantitie of ground the same doth containe.
- 7 What the same is worth by the yeere to be letten.
- 8 Whether that the same Purpresture bee made vpon the soile and inheritance of the king, or, vpon the soile of any comon person.
- 9 In whose fee, the same is, & in what parish.
- 10 Whose inheritance, the same is.

## Chap. xj.

- 1 *Of Agistment, and what Agistment is.*
- 2 *Of the time of Agistment of the Kinges woods and landes.*
- 3 *Who shall Agist the Kinges woods and landes.*
- 4 *Of the time of Agisting of other mens wooddes and landes.*
- 5 *Who shall Agist the woods and lands of other men.*
- 6 *Whereof the same taketh the name of Agistment.*

1 *Of Agistment, and what Agistment is.*

In most places within this Realm, where the King hath any Forrests, he hath also within those Forrests, certaine woods and lands, that are his own demesne woods and lands, which are alwaies kept inclosed, besides those, which are of y<sup>e</sup> kings wast soile of the Forrest, which are not inclosed, but doe lie open for common, for the inhabitants of Forrests. For the better rule and gouernment of which said places, and to the end, that the King may take the benefit and profit, that may any way arise and grow by the same, he hath certaine meete Officers in euery Forrest to take charge thereof, and which are answerable vnto the king, as well for the ordering and disposing of the same, as also for the money and profit that shall arise or any waies be made thereof, which Officers are called the kings Agistors of his Forrest. These foresaid Officers doe continually attend vpon the kings woods and landes, and doe re-  
ceau



ceatie and take in the beastes and cattell of euery person, being an inhabitant within the Forrest, that may for their money haue common of herbage there, for such beastes as are commonable within a Forrest: and this manner of taking in of cattell, to pasture or feede by the weeke, or by the moneth, or otherwise, is called Agisting of beastes or cattell: and the common of herbage, that they haue there for their beastes, is called Agistment. But it is to be vnderstood, that Agistment is most properly, the common of Herbage, of any kinde of ground, or lande, or woods, or the money that is receaued or due for the same. And Master Hesketh, in his reading of the Lawes of the Forrest, saith, That the pasture or common of Herbage of any kinde of grounde, or the money, that is taken for the same, is properly called Agistment. And also it doeth appeare by the booke of Entrees in the title of Trespasse, (where one man brought an action of Trespasse against another, for the breaking and entering into his close in Dale, and for the spoiling and eating vyppes of his pasture and Herbage there, with certaine cattell, and the defendaunt pleadeth, that, as to the breaking of the close, hee is not guilty: and, as to the spoiling and eating vyppes of his pasture in the saide close, in which the saide Trespasse is supposed to be done, he saith, that one J. S. was seised of the same close in fee at the time of &c. and that hee by the appointment of the saide J. S. did put his saide cattell, scilicet, his Kyne, Oxen &c. into the same close to Agist, paying vnto the saide J. S. for the Agistment of euery beast there, from &c. thre halfe pence for euery weeke, for their Agistment) that aswell the Herbage and pasture of the ground and soyle, as also the money for the same, is called Agistment.

M. Hesketh  
fol. 48.

In libro in-  
trationis fol.  
549. in titulo  
Trespassi in  
Agistment.

Vide librum  
intrationis.

And it doth also appeare in the booke of Entrees, in Ti-  
tulo

tulo debt, where a man brought an action of debt against an other man, for the Agisting of his cattell in his lande, that aswell the pasturing of cattell, as also the money, for the same, is called Agistment, or money for Agistment, And likewise in the 22. Assisarū, it is declared by Mombray, Banke, and, Thorpe, what Agistment is, where they say, that if a man haue common by a specialty in a certaine place, and he hath no cattell of his owne to common, there he may not Agist other mens cattell, there to vse his common, so that thereby it is declared, what Agistment is. My Lord Dier reciteth a case, that the Bishop of Lincolne made a lease vnto one B. (and caused the same to be confirmed with the Chapter Seale:) of the Herbage and Agistment of Stow parke, and he surcharged the parke, with so many cattell, that the Deere could haue no feede there, by reason of Agisting of other cattell.

Fol. 149. in the generall title of debt in the d. u. l. of Agistment.

In libro Assisar. 22. pla. 84. Vide quoque 45. E. 3. fol. 25. pla. 38.

Dyer fol. 80. plac. 56.

But here it is to be noted, that those, that haue right to common within the wast soile of the Forrest, and to Agist their beasts and cattell, there they may not haue Agistment for all maner of beasts and cattell, but onely for such beasts and cattell as are commonable, but not for geese, Goates, sheepe, nor swine, as hereafter in the Chapter of common shall be declared.

## 2. Of the time of Agistment of the Kings woods and landes.

**T**he time of taking of Agistment for al maner of beasts and cattell, that are commonable, within the forrest, in the Kings demesne woods, lands, and pastures, for Herbage onely, doth alwaies begin fiftene daies before Midsummer day, and doth last vntill Holy Roode day, and then the same doth ende. It doth appeare by the charter of the forrest in these words, quod tertium Swany motum teneatur

initio



## A Treatise of Cap. xj.

Carta de fo-  
resta artic. 8.

initio xv. dierum ante festum Sancti Iohannis Baptiste, quando Agistatores nostri conveniunt pro feonatione bestiarum nostrarum, That the thirde swanimote shalbe holden in the beginning of fifteene daies before the feast of Saint Iohn Baptist, when that our Agistors doe meet together for the sawning of our wilde beastes: and this swanimote is held and kept at this time for two causes, whereof the one is, that at this Court, there may be order taken throughout all the Forrest, that diligent watch and ward be kept for the preservation of the wild beastes in their time of sawning, being fifteene daies before Midsummer, and fifteene after, which time is called the fence month. The other cause is, for that the Agistors of the kings Forrest doe then begin to Agist the kinges demesne lands, woods, and pastures, for herbage, and then they doe receave and take into the kings landes, woods, and pastures, all manner of beastes and cattell, that are commonable within the Forrest, for herbage, And this sort of Agisting of beastes commonable doeth continue untill the beginning of fifteene daies before Michaelmas, which is alwaies vppon Holy Roode day, and then the time of greace endeth, And so doth also the time of Agistment of the Kinges demesne woods, landes, and pastures for herbage. For, in the beginning of fifteene daies before Michaelmas: (which is vppon Holy Roode day:) then the next Swanimote for the Forrest is to be holden, as it doth appeare by the charter of the Forrest in these words, Nullum Swanymotum de cetero teneatur in Regno nostro, nisi ter in Anno, videlicet, in principio xv. dierum ante festum Sancti Michaelis, quando Agistatores nostri conveniunt ad Agistandum dominicos Boscos nostros. From henceforth no Swanimote within our Realme shalbe holden, oftener, then three times in the yere, that is to say, in the beginning of fifteene daies before Michaelmas: (which is vppon Holy Roode day:) when our Agisters

Carta de fo-  
resta artic. 8.

Agisters of our Forrest doe meete together for the Agisting of our demeasne woods, so that at this Swanymote, when the Agistors haue done Agisting for herbage, then they doe receaue all their money for Agistment of herbage, in the presence of the Forresters and verderers, so that they may record the same in the verderers Role: And at this Court at Holy Roode day, Then the Agistors doe begin to Agist the kings woods. And whereas before they did Agist the lands, woods, and pastures, for herbage onely, nowe they doe begin to Agist the woods for mast: And whereas the other Agistment for herbage, was for beasts commonable onely, this Agistment is for beasts not commonable, that is to say, for swine and Hogges: And this Agistment doth begin at Holy Roode day, that is fiftene daies before Michaelmas, and doth continue forty daies after Michaelmas, which is about the feast of Saint Martin the Bishoppe in Winter. And then the next court of Swanymote, is to be holden, as it doth appeare by the charter of the Forrest, in these wordes, *Et circa festum Sancti Martini in hieme, quando Agistatores nostri debent recipere pannagium nostru.* About the feast of Saint Martine the Bishop in Winter, when that our Agisters shall receaue our Pawnage, so that, as the kings Agistors doe beginne to take swine and hogges into the kings demeasne woods, to Agist the same, and to feede vpon the mast there, at the Court of Swanymote holden vpon Holy Roode day: so likewise at the next Swanymot after, which is to be holden at the feast of saint Martin the Bishop in Winter, whē y the time of Agisting of hogs and swine in the kings demeasne woods and lands is ended, then the kings Agistors doe likewise in the presence of the forresters and verderers receaue their money for the same, (which money for the Agisting of woods is called pawnage) and then the same is to bee entred in the verderers Role. And so note, that the time of Agisting of  
the

*Carta de fo-  
resta artic. 8.*



## A Treatise of Cap. xj.

the kings demesne landes, woods, and pastures, for Herbage onely, doth begin vpon Saint Edmonds day, being fifteene daies before Midsummer day, and doth end fifteene daies before Michaelmas day, which is vpon Holy Roode day: And the time of Agisting of the kings demesne woods, for mast onely, which is called the time of pawnage, doeth begin vpon Holy Roode day, which is fifteene daies before Michaelmas day, and doth end thre daies before the feast of Saint Martine the Bishoppe in Winter. And this is to be noted, that when the Forresters, verderers, and Agistors of the kings Forrest doe perceaue, that it is time to Agist the kings demesne woods and lands, for herbage, and likewise for pawnage, then they must inform the kings lord chiefe Justice in Eyre of the Forrest thereof, and know his will and pleasure, what he will haue done therein, and after true certificat vnto him made of the certainty of euery thing, the said Lord chiefe Justice in Eyre will direct his commission vnto the foresaid Forresters, verderers and Agistors, signifying thereby his will and pleasure, what they shall doe, and howe, and in what manner, they are to proceede in Agisting of the Kings demesne woods and lands, and according to that commaundement, and the tenor of their commission, they shall proceede to make their Agistment: which letters of commission, they shall returne again before the said Lorde chiefe Justice of the Forrest, at the next Justice seat to be holden for the same Forrest, with a true certificate, howe they haue executed the same in euery point, as it doth appeare by the Assises and customes of the Forrest in these wordes, Sciendum, quod, tempore pannagij, quando Agistamentum debet fieri, debent forestarij, viridarij, & Agistatores assensum intimare Iusticiarijs forestæ domini Regis, & inquirere voluntatem suam, & fiat Agistamentum tam in dominicis haijs & boscis, quam in forinsecis, & secundum mandatum suum, & tenorem litte-

Alisa & con-  
tuerudines fo-  
restæ arti. 14.  
Rastall in ti-  
tulo forestæ.  
21.

litterarum debet fieri Agistamentum, quas literas debent habere coram Iusticiarijs de foresta prox. itinerantibus, Knowe ye that in time of pawnage, when the Agistment ought to be made, the forresters, verderers, and Agistors, shall craue the assent of our Iustices of our Forrest, And to knowe their wils and pleasures, And then the Agistment shalbe made, aswell within the demeasne Hedges and woods, as without, And this Agistment shall be made according to their commaundement and tenor of their letters, which letters they shall haue before the Iustices of the Forrest, at the next court of Justice seate, to be holden for the same Forrest.

3 Who shall Agist the Kings woods and lands.

**A**ND therefore the Kinges demeasne woods and landes, must alwaies be Agisted by the Kinges Forresters, Verderers, and Agisters, as it doeth appeare by the Assises of Henry the Second, called the Assises of Woodstocke, in these wordes, Item Rex præcipit, quod in quolibet comitatu, in quo habet venationem, ponantur duodecem milites ad Custodiendum venationem suam, Et viridarij cum forestarijs & quatuor militibus, ad Agistandum Boscos suos, & ad recipiendum pannagium suum: The King commaundeth, that in euery county, in which he hath a Forrest, and venison, that there be twelue knightes appointed to keepe his venison in the same, and that his Verderers with the Forresters, and foure knights called the Agistors, shall Agist his woods and pastures, and also receaue his pawnage: So that, by this it appeareth, that the Agisting of the Kinges demeasne woods and landes must be made by the Verderers, Forresters, and Agistors, that is to say, with their consents & priuicy, & for that

Assisa foreste  
facta apud  
Woodstocke  
artic. 2.



that cause the Swanymote courts were appointed by the charter to be holden at such daies, when the time of Agisting of the kings demesne woods and lands for herbage doe begin, to the ende, that all those Officers might there meete, and ioyne together about it: And likewise, when the same doeth ende, that those Officers might there also meete, for the receipt of the kings money for such Agistment. And euen in like maner for the Agisting of the kings woods, and for the receipt of his pawnage money, so that such Agistments of the kings demesne woods and landes, being made in this order, with the full assent and priuity of the forresters and verderers, they may inrole the same, in the verderers Role, to agree with the Role, and with the accompt and reckoning of the Agisters: For, the verderers Role of the Swanymote courts is the kings record, whereby to charge the Agisters of the king, for the receipt of his money. For, the Agisters of the kings Forrest, are only to receaue al the mony for the Agistment of the kings demesne woods and lands themselues, and they are onely chargeable to the king, to answer him for the same, As it doth appeare by the Assises of the Forrest of Pickring, Anno 8. E. 3. whereas it was adiudged, as followeth, videlicet, And as concerning the Agistors of the kings demesne woods and landes, Euery Agistor within the kings Forrest, must bring before the Lord chiefe Justice in Eyre of the Forrest, at the Justice seate, a true and a iust accompt, what money he hath receaued for any Agistment or pawnage, of the kings woods and landes. And the forme of the Entree thereof, is thus, Rogerus M. vnus Agistatorum istius forestæ, Respondebat de Agistamento Herbagij de Eastwood iij. li. iij. s. Et de pannagio Porcorum de Eastwood xxij. s. iij. d. And it doeth likewise appeare by the charter of the forrest in these words, Et circa festum sancti Martini in Hieme, quando Agistatores nostri debent recipere

Assisa forestæ  
de Pickring  
fo. 7. 8. 9. ann  
8. E. 3.

Carta de foresta  
artic. 8.

pere pannagium nostrum, one of the three Swanimotes is appointed to be holden about the feast of Saint Martin in winter, when the kings Agistors shall receaue the kings pawnage: so that, although the Agisting of the kings demeasne woods and lands, must be made by the Forresters, Verderers, and Agistors, yet the Agistors onely are to receaue the money for Agistment and pawnage, and therefore they onely are answerable to the king for it, and not the Verderers, nor the Forresters, for the Verderers are answerable to the king but onely for the keeping of the kings Records of such matters concerning the Forrests.

And if any man, that is a Stranger, dwelling without the bounds of the Forrest, do driue his beasts or cattell into the Forrest, & Agist them in the kings demeasne woods or lands there, without the licence or priuie of the kings Officers of the Forrest, or other good auctoritie thereunto, then the beasts so Agisted shalbe taken by the Forresters, and Agistors, and appysed and then deliuered vnto the Verderers, to answer vnto the king the value thereof, for, such beasts are forfeited.

But if an inhabitant within the bounds of the Forrest, do Agist his beasts in the kings demeasne woods or lands, that are within the Forrest, without any agreement with the kings officers of the Forrest, in this Case, the beasts so Agisted are not forfeited, but the offender is to make his fine with the king for that offence. And as M. Hesker & M. Treherne do affirme, such an offence is determinable before the Verderers in their courts of attachments.

Concerning the Agisting of such beasts and cattell, as are comonable within the kings wast soyle of the Forrest, it is a matter fitter to be handled in some other place then here, and therefore, if you desire to be fully satisfied of euery particuler point thereof, you shall repaire vnto the Chapter of Common being the 14. Chapter in this booke, but

M. Hesker  
fol. 21. in his  
reading of  
the Forrest.  
Assise forestæ  
de Pickring  
fol. 16.

M. Hesker fo.  
23. M. Tre-  
herne fol. 8.



but yet neuerthelesse because that common of Herbage is a matter of Agistment, it shall not bee amisse to speake something here in this place, concerning the Agisting of beasts and cattell, within the wast soyle of the kinges foress: and for that, it is to be understood, that no man may Agist his beastes or cattell within the kings wast soyle of the Foress, but he, that is an inhabitant within the Foress, or, that hath common appendant, or, common appurtenant, within the Foress, by reason of some land, that he hath lying within the Foress. And if a man, that doth dwel within the Foress, and may common within the wast soyle of the same with his own beasts and cattell, wil take the beasts of other men, that are strangers, to Agist them in the wast soyle of the Foress, this is fineable to the king, & the forme of the Entree of the Record is thus. Item presentant, quod A. B. Agistat omnia aueria sua in mora de F. infra forestam, ad dampnum domini Regis, & ad nocumentum ferarum, Et nesciunt quo warranto, Ideo preceptum est vicecomiti, quod venire faciat eum. Et postea testatum est per ministros forestarum, quod ipse nihil habet infra forestam, Ideo pro Agistamento predicto, in misericordia, & remaneat Agistamentum in manu domini Regis: and, euen the like case, and the like Entree, there is of the ppyor of Saint Johns, for Agisting of the cattell and beastes of strangers within the Foress of the King, ad nocumentum ferarum & ad dampnum domini Regis, & nesciunt quo warranto, ideo &c.

Assisa forestarum  
de Pickering  
fo. 10. Anno  
8. R. 3.

Assisa forestarum  
de Pickering  
fo. 10.

#### 4 Of the time of Agisting of other mens woods and lands.

**H**aving sufficiently already declared, the time of Agisting of the kings demesne woods and landes, and who shal Agist them, & in what maner they shalbe Agisted,

it is likewise requisite, here in this place, to declare the time of Agisting the woods and landes of other men, and also, who shall Agist the woods and lands of other men being within the Regard of the Forrest. And therefore, you shall vnderstand, that euery man, which hath any woods or lands within the regard of the Forrest, may Agist them for the herbage onely, with his owne beasts and cattell, at all times of the yeare conuenient, at his owne will and pleasure, so that, the woods and springes in them be well and carefully preserved to grow againe for couerts of the Forrest: to, by the lawes of the Forrest (as I do take it) there is no certen time appointed or prescribed for men, that haue woods or lands within the Forrest, to Agist them with their owne beasts, that are commonable, for the herbage thereof, but that they may Agist them at any tyme when they please, according to the tenor of the Charter of the Forrest in these wordes, Vnusquisque liber homo Agistet boscum suum in Foresta pro voluntate sua, & habeat pannagium suum, Euery freeman may Agist his owne lands & woods, which he hath within the Forrest, and also, he may take the pannage of them, at his owne will and pleasure. By this graunt it appeareth, that men may Agist their woods and landes for the herbage, and also for the Pannage, that is, for the Mast of the trees, Pro voluntate sua, at their owne pleasures, and that is to be vnderstood, at any time when the owners of them will. But yet, here in this Case, it is to be noted, that, if any man haue woods or Hedgrowes adioyning or lying neare vnto the Kings demesne woods, then the owner thereof may not Agist such woods nor Hedgrowes with any swine or hogs, vntill such tyme that the King haue Agisted his owne demesne woods, and that is, because that, when the king hath Agisted his owne woods, then the Hogges nor swine, that are Agisted in those woods and hedgrowes that are

Carta de Fo-  
resta artic. 9.



neere adioyning vnto the Kings owne demeasne woods and hedgrowes, can not preiudice nor hinder the Kings Agistmēt, and therfore, after that the kings demeasne woods and hedgrowes be Agisted, then men, that haue woods and hedgrowes adioyning vnto the kings demeasne woods within the Forrest, may Agist them with their Swine and hogs, as many as can cōueniently be Agisted there, but not before, as it doth appeare by the Assises and customes of the Forrest in these words, Si quis habuerit Boscum iuxta dominicum boscum domini regis, licitum est ei, postquā dominicæ hær Agistatæ sunt, habere tempore pannagij, tot porcos, quot Boscus per visum forestariorum, viridariorū, regardatorum, Agistatorum, & aliorū proborum hominū, possit pati, Et hoc fiat de exitu porcorum. If any mā haue woods neere vnto the demeasne woods of the king, it shalbe lawfull for him, after that the kings demeasne woods and hedgrowes are Agisted, to haue in the time of pawninge, so many swine, as the wood may suffer, by the view of the Forresters, Verderers, Regarders, Agistors & other lawfull men, and this shalbe done of the profit of the swine. Therefore it is to be vnderstood, that men may Agist their woods and lands, that they haue within the regard of the Forrest, for the herbage thereof, with their owne beasts and cattell, at any time they will.

Assisa & consuetudines forest, artic. 13.  
Rastall in titulo forest, 21

And also, men may Agist their woods, that they haue within the regard of the Forrest, with swine and hogges for the mast thereof, which is called pawninge, at any time when they wil in the time of pawninge: (certain woods that do lie and adioyne neare vnto the kings demeasne woods & hedgrowes, onely excepted, which may not be Agisted, vntill that the kings demeasne woods and hedgrowes be Agisted, which is about the feast of saint Martin the Bishop in winter.) And then they may also Agist such woods at their pleasure. But no man, that hath woods or lads within the

the regard of the Forrest, may Agist them with the cattell of other men or of straungers, for the herbage thereof, except that he haue a speciall licence so to do, for, if he do the same, it is fyneable at the Iustice seate, notwithstanding the wordes of the Charter of the Forrest, Vnusquisque liber homo Agistet Boscum suum &c. which is, that euery free man, may Agist his owne woods, and his owne lands, that he hath within the Forrest, at his owne will and pleasure, and he shall haue the pawnage thereof, but yet, this must be vnderstood, that they must Agist their owne lands, and their owne woods, with their owne beastes, and their owne cattell, for the herbage onely, for it seemeth that they are restrayned by the Forrest Lawes to Agist their woods or lands within the regard of the Forrest, for the herbage thereof, with the beastes or cattell of other men, or straungers, but they may Agist their woods and hedgrowes within the Forrest, for the pawnage thereof, with the hogs or Swine of other men and Straungers, aswell as with their owne Hogges or Swine, as it doth appeare by the Assises of the Forrest in these woods, Licitum est ei, postquam &c. it shalbe lawfull for him, that hath woods within the regard of the Forrest, after that the Kings demeasne woods are Agisted, to haue in those woods, in the time of pawnage, so many swine, as the wood may suffer, by the vewe of the Forresters, Verderers, Regarders, and Agisters, and other lawfull mē, and then it doth follow, Et hoc fiat de exitu porcorum, and this may be done of the profit of the Swine, which is to be vnderstood by the receauing of money for the pawnage of them. And likewise it doth appeare by the Charter of the Forrest in these wordes, Vnusquisque liber homo &c. Euery freeman may Agist his woods, that he hath within the Forrest, at his owne will and pleasure, Et habeat pannagium, and may also take the pawnage, and this word Pawnage, is here vnderstood

In Clameo  
abbatis de  
Ryual. Itin de  
Pickring fol.  
166. 10. E. 3.

Carta de fo-  
resta artic. 9.

M. Heskett  
fo. 26.  
Assisa forestæ  
de Pickring  
fol. 166.

Assisa & con-  
suetudines  
forestæ artic.  
13.

Carta de fo-  
resta artic. 9.



for the money for the mast, and so then he, that is a Freeman, and hath woods within the Forrest, he may Agist his woods, and receaue money for the Agisting of them also, that is to say, the pawnage, as hereafter moze at large shalbe shewed in the Chapter of pawnage. But such libertie is not giuen by the Charter of the Forrest, to men to Agist their lands and woods, that they haue within the Forrest, for the herbage thereof, for, if it were, then men would Agist their lands and pasture, so bare, with the cattel of strangers, that the Deere should thereby be cleane banished out of the Forrest for want of foode.

5 Who shall Agist the woods and lands  
of other men.

Carta de Fo-  
resta artic. 9.

**T**he words of Carta de Foresta articulo 9. are, Vnusquisq; liber homo, Agistet Boscum suum &c. Every Freeman, that hath any woods or lands within the Regard of the Forrest of his owne in fee simple, fee tayle, for terme of life, or for yeeres, in his owne right, or in the right of his wife, or in the right of any other, he himselfe, his seruant, factor, or tenaunt, may Agist his woods, and his lands, aswell for the herbage thereof, as also for the pawnage, with such beasts, and in such sort, at such times, & in such places, as already befoze hath beene declared. But a man may not Agist goates, nor sheepe in his owne woods nor lands within the Regard of the Forrest, although that they be his owne beasts or cattell, without licence so to do, Quia prebent exilium ferarum Forestæ, for they do taynt the pasture, where they feed, so that the wild beasts of the Forrest will not feede where they doo vse to feede, and by reason thereof, they do cause the erile and banishment of the wild beastes of the Forrest from euery place where they are.

Afsifa forestæ  
in Clameo  
Burgienf. Lā-  
cast. fo. 30.

## 6 Whereof it taketh the name of Agistment.

**T**his worde Agistare, to Agist, or, to feed, and also Agistamentum, Agistment or feeding of beastes, is deriued of the Latin verbe, Agito, to driue, sometimes to feed, For of this verbe, Agito, to driue, or to feed, the Lawiers haue framed this verbe Agisto, to feede or to Agist, (by adding thereunto this letter S:) and then of Agisto, Agistamentum, the feeding or Agistment of beastes or cattel, with herbage or mast. For, it is to be noted, that Agistment is in two sortes, that is to say, the Agistment of the herbage of Woods, Landes and Pastures, and also the Agistment of the woods, which is the mast of the woods, which by a more proper worde, for difference, is called the Pawnage.

## Chap.xij.

- 1 *Of Pawnage, and what Pawnage is.*
- 2 *Of the time of taking of Pawnage in the kings woods.*
- 3 *Who shall receaue the Pawnage of the kings woods with in the Forrest.*
- 4 *Of the tyme of taking of Pawnage in the woods of other men.*
- 5 *Who shall receaue the Pawnage of the woods of other men within the Forrest.*
- 6 *Whereof the same taketh the name of Pawnage.*
- 7 *Of the difference betweene Pawnage and Agistment.*



## 1 Of Pawnage, and, what Pawnage is.



**A**s the Agistors of the Forrest do attend vpon the demesne woods and lands of the King, to Agist them, for the herbage thereof, for the benefit of the King: So likewise, in the time of pawnage they do also attend to Agist the demesne woods and hedgrowes of the King for the profit of the mast, which is called Pawnage: For, the feeding of Hogges or Swine with the mast of the woods, is called the Agisting of the woods, but the profite of the mast is called the Pawnage, for this word Pawnage, although that in some sence the same is oftentimes taken, as well for the Agistment of Swine or hogges with the mast of the woods, as also the money that is receiued for the Agistment, yet in deed, Pawnage is rather the money that is receaued for the Agistment of the mast, then the mast, or the Agistment it selfe, for, whereas the wordes in Carta de Foresta are, Quando Agistatores nostri debent recipere pannagium nostrum, when our Forresters shall receaue our pawnage, there by that word Pawnage, is vnderstood the money for the Agisting of the woods, and so likewise, whereas the wordes of Carta de Foresta are, Et habeat Pannagium suum, and he shall haue the Pawnage of his owne woods, there, by that word Pawnage, is vnderstood the profite of the mast, or the money that is receaued for the same, and likewise, where the wordes of Assisa Foresta are, Quod deinceps capiatur pro quolibet porco, quatum potest, ad opus domini Regis, pro pannagio: that hereafter there shalbe taken for euery hogge,

as

Carta de Fo-  
resta artic. 8.

Carta de Fo-  
resta artic. 9.

Assisa & con-  
suetudines fo-  
resta art. 14.

as much as may bee, to the vse of the king, for pawnage, that is to say, a peny, or two pence for euery hogge, there, that worde Pawnage, is vnderstood for the money that is due for the Mast. Master Heker in his reading of the charter of the Forrest saith, that Pawnage is not properly the Agistment, or mast of the woods for hogges, but the money or profit that is due to be payde, to the king, or to the owner of the woods, for the same: and he saith, that it hath beene adiudged in the time of E. 1. where one brought an action of trespasse against John at Style, for entring into his Parke, and with his cattel there eating vp of his pawnage, and there saith he, the writ was abated by the award of the Court, for the writ ought to haue beene, que il oue ses auers pessonem suam la depast, and not que il oue ses auers pannagium suum la depast, which is, that he, with his cattell did eat vp his mast there, and not, that he with his cattell did eat vp this pawnage there: for, the pawnage is onely the money that is payde for the mast, and not the mast, as he saith, but quare of this case, for I can finde no such case reported.

M. Heker  
fol. 48.

It doeth appeare in the Booke of Entrees, in an action of Trespasse brought against the Bishoppe of Couentree and Lichfield, for the taking and driuing away of certaine hogs, where the Bishop doth iustifie the trespasse, by reason that hee was seised of a great chafe, as in the right of his Bishopricke, in his demeasne as of fee, within the lymits and boundes of which chafe, there was a great wood, within which wood the said hogges were found Agisting of the mast there, and the Bishoppe pleadeth a prescription, that he and all his Auncesters, haue vsed to haue the pawnage of the said wood, videlicet, vnum denarium de pannagio cuiuslibet porci, tempore fugationis in eadem Chafa proinde, that is to say, a peny for the pawnage of euery hogge, at the time of the drift of the said chafe, and he alleadgeth also

Vide librum  
in rationis  
fol. 595.  
Trespasse in  
pawmag. 1.



also a prescription, that, for the leuying of the same pawnage, he, and all his auncestors haue vbled, verely betweene Michaelmas and Christmas, to driue all the hogs then being within the same chafe, vnto some conuenient place to pound, and there to impound and detaine them, vntill that the same Byshop were satisfied and paide of the pawnage thereof, And so iustifieth the taking and driuing of the hogges, for the leuying of the pawnage: by this case, it seemeth, that this worde Pannagium, is rather taken for the money, or profit, that is made of the mast or Agistment of the woods, then the mast or Agistment it selfe, and yet, it seemeth that it may be taken for either of them, and that indifferently: Euen by this case also, in the booke of Entrees in the title of Tolle it doth appeare, that a certaine prioz and couent pleaded a graunt from the king, to be quit De Pannagio & Boscagio, of Pawnage and of Boscage, and there to be quit of pawnage, is vnderstood to be discharged of paying any money for the pawnage of their Swine going in the kings woods, and to be quit of Boscage, is to be discharged of paying any duty for windfall woods, by this it appeareth, that this word Pawnage, is most properly vnderstood the money, that is paide for the mast of the woods: And yet, here it may be also taken for the feeding of the Swyne with the mast, or the profit of the mast. Also in the Booke of Entrees in the title of Assise, the Tennant there pleaded a graunt from the king, for the keeping of a certaine Parke, with the profits and commodities of the woods of the same Parke, and also the pawnage: and the wordes of the graunt are, Necnon pro quolibet porco, in eodem parco ad pannagium posito, pro eodem Pannagio vnum quadrantem, And also for euery hogge in the same Parke put to Pawnage, for the same Pawnage one farthing: here in this place, this worde Pawnage, is rather vnderstood for the feeding of hogs with mast, then the

Vide librum  
intrationis f.  
605. in titu-  
lo tolle,

Vide librum  
intrationis in  
titulo assise  
fo. 75. in of-  
fice 2.

the money for the feeding of them, and yet here it may be taken for either of them very well. Master Lynwood in his provinciall Constitutions of England, Amongst the tythes of woods and wilde fruites that are payable, hee speaketh De Pannagijs Sylvarum, of the mast of Beech, or Oke, or such like, where he saith, Si vendantur &c. if the mast be solde, then the owner of the woods shall pay the tenth penny De Pannagijs Sylvarum, of the mast of the woods, or the tenth peny of the money, that is receaued for the mast of the woods: here, this word Pawnage, is most properly vnderstood for the mony that is paide for the mast, and it may also be vnderstood the mast it selfe.

Vide M. Lyn-  
wood fo. de  
Pannagijs.

2 Of the time of taking of Pawnage in the kings woods.

**T**he time of Pawnage in the Kings demesne woods, doth begin vpon Holy Roode day, being fifteene daies before the feast of Saint Michaell, quando Agistatores nostri conueniunt ad agistandum dominicos Boscos nostros. When the kings Agistors doe meete together to Agist the kings demesne woods, And doth end forty daies after the feast of S. Michaell, that is about the feast of S. Martine the Byshop in Winter, quando Agistatores nostri debent recipere pannagium nostrum, when the kinges Agistors shall meete together to receaue his pawnage.

Carta de Fo-  
resta artic. 8.

3 Who shall receaue the Pawnage of the Kings woods within the Forrest.

**A**nd although that the kings demesne woods and lands are to bee Agisted, with the assent priuie and consent of his Forresters, Verderers, and Agistors, as it doeth appeare in the Assises of the Forrest, yet the kinges Agistors of the Forrest onely are to receaue the Pawnage money for the same, as it doeth appeare by the words

Assisa & con-  
suetudines for-  
resta arti. 13.  
14.



words of the Charter of the Forrest aforesaid, viz. When our Agistors shall receaue our pawnage, and the Agistors of the kings Forrest onely are chargeable to the King, to answer the pawnage, as it doth appeare by the Entrees in the Records of the Assises, and Iters of Pickering and Lancaster, in sundrie places, as already hath beene shewed before in the last chapter of Agistment, See this matter more at large in the same chapter in the third Section.

4 Of the time of taking of Pawnage in the woods of other men.

**F**Reeholders, and all others, that haue woods and lands within the regard of the Forrest, may Agist them, for the mast thereof, at such time, as is most conuenient, when the mast is ripe and ready to be Agisted, for, although it was once appointed for a law by the Assises of Woodstock, Quod nullus agistet Boscos suos infra metas Forestæ, antequam Bosci sui agistentur, that no man should Agist his owne woods within the regard of the Forrest, untill that the kings demesne woods were Agisted, yet that Law is now altered by the 9. Article in Carta de Foresta, videlicet, Vnusquisque liber homo agistet Boscum suum in Foresta, pro voluntate, & habeat pannagium suum. Euery Freeman may Agist his owne woods within the Forrest at his owne will and pleasure (that is when he will:) and he shall haue also the pawnage of his owne woods, so that by this article of the Charter of the Forrest, being graunted long after the Assises of Woodstock, Scilicet, in the 9. yeare of king Henry the third, that bondage is now freed: whereby, men may Agist their owne woods for the pawnage, at any time when they will, so that the same be done Tempore pannagij, in the time when there is mast, for, all other times when there is no mast in the woods, then hogges nor swine

Assisa de  
Woodstock  
artic. 4.

Carta de Fo-  
resta artic. 9.

Swine are not tollerable there. But yet, it is to be vnderstood, that by the Assises and customes of the Forrest, made in Anno Sexto of E. 1. It is appointed for a Lawe, quod si quis &c. That if any man haue woods lying within the Forrest, neare vnto the kings demesne woods, the owners of such woods may not Agist them, vntill that the kings demesne woods be Agisted, And that is, because that the owners of such woods shall not hinder the kinges Agistment, by the Agisting of their woods, so that now the Lawe seemeth to be this, That euery freeman, that hath any woods or hedgrowes within the Regarde of the Forrest, he may Agist them and take the pawnage therof at any time, when he will, in the time of pawnage, such wooddes and hedgrowes, as are lying neare vnto the kings demesne woods and hedgrowes, onely excepted, which may not be Agisted, vntill that the kings demesne woods and hedgrowes bee Agisted, which is about the feast of Saint Martin the Bishop in Winter.

Assisa forestæ  
Anno 6. E. 1.  
Rastall fo-  
rest. 21.

- 5 Who shall receiue the pawnage of the woods  
of other men within the Forrest.

It seemeth also by these words of Carta de foresta, vnusquisque liber homo agistet Boscum suum, & habeat pagnagium suum: Euery Freeman may Agist his owne woods himselfe, that is, he may feede them, or take the mast of the with his owne swine or hogs. And then it doth follow with a copulatiue, Et habeat &c. and he shall haue the pawnage thereof, that is, he may Agist them with the swine or hogs of other men, And that he may take or receiue the pawnage, that is, the money for the pawnage. And so it is also proued by the Assises and Customes of the Forrest, in these words, Et hoc fiat de exitu porcorum. Viz. and this may be done of the profit of the swine. So that as a man may

Carta de Fo-  
resta artic. 9.

Assisa de Fo-  
resta Anno  
6. E. 1. artic.  
13.



## A Treatise of Cap. xij.

may Agist his woods himselfe, that are within the Forrest, he may likewise receiue and take the pawnage of them, by the Agisting of the swine of other men, And so the owners of the woods themselves may receiue their own pawnage, which liberty is given by the Charter of the Forrest, for, the Lawes of the Forrest were otherwise before.

### 6 Whereof it taketh the name of Pawnage.

**T**his word Pannagium, for pawnage, is deriued of Pannegyris, which is a collection or gathering together of the money or the profits, that is made of the fruites of Trees, as of mast and such like: so that, as the Latinests doe vse fruges, for all kinde of fruites, so the common Lawyers and the Ciuilians doe vse this word Pannagium, for the mast of such trees only, as doe beare fruit to feed swine withall, or els, for the money that is made of such fruites: so that as by this word Agistment, is vnderstood the Herbage of any kinde of ground, or, the money that is paide for the same: so likewise, this word Pawnage, is taken for the Agistment of any kinde of mast of Trees to feede swyne or hogs withall, or, the money that is paid for it.

### 7 Of the Difference betweene Pawnage and Agistment.

**A**nd therefore this is the difference betweene Pawnage, and, Agistment, that Pawnage is the Agistment of the mast of the Trees, or, the profit that is made of it: And Agistment, is the Herbage of the ground, or, the profit that is made of the same.

Chap. xiiij.

- 1 Of the fence moneth, or, defence moneth.
- 2 How long the fence moneth doeth last, and when the same doth begin and end.
- 3 At what time the fence moneth had his first beginning.
- 4 To what end, and for what cause the same was first ordained and appointed.
- 5 Howe euery Officer of the Forrest ought to demean himselfe in the time of the fence moneth for the preservation of the wilde beasts.
- 6 That no man ought to wander up and downe in the Forrest in the time of the fence moneth without some especiall businesse there.
- 7 Whereof the same taketh the name of the fence moneth.

1 Of the fence moneth, or, defence moneth.



Almightye God of his prouident  
 wisdom hath appointed times &  
 seasons for euery thing, & hauing  
 made man the chiefest, and most ex-  
 cellent creature vpon y<sup>e</sup> face of the  
 earth, he hath endued him with  
 knowledge and foresight to fore-  
 see and prouide for times and sea-  
 sons, such things as are necessary, as it appeareth in the  
 nine and thirtieth Chapter of Iob, where God speaking vn-  
 to Iob, said, knowest thou the time when the wilde goates  
 bring forth their young among the stony Rocks, or layest  
 thou

Iob, chap.  
 39, 24



thou waite when the hyndes vse to fawne, Reckonest thou the moneths after they engender, that thou knowest the time of their bearing, or when they lie downe, when they cast their young ones, and when they are deliuered of their trauaile and paine, howe their young ones grow vpp and ware great thorough good feeding, vnto whom I haue giuen the wilbernesse to be their house, and the vntilled land to be their dwelling place. Whereby it appeareth that, euen as God hath appointed the wilde beastes of the fozrest, a place to dwell in, so hath he also appointed them a time to fawne in, and to bring forth their young ones, for the increase of their kinde: and as God did make these wild beastes of the Fozrest for the vse of man, and gaue him the rule and charge ouer them, so the king, being the chiefe head and ruler of man, hath made and appointed certaine laws and ordinances for the preservation of those wilde beastes, for the necessary seruice and vse of man, and for that cause the Kings and Princes of this Realme haue made and established certaine prouident Lawes, for the preservation of fozrests, and for the replenishing of them with wilde beastes, Among which Lawes there is a speciall Regard had for the time of fawning, being the time, when that the feminine kinde of those wilde beastes do bring forth their young ones. And amongst all the lawes and ordinances, that euer were made for the preservation and continuance of a fozrest, there is none, that should be moze carefully looked vnto, and regarded, then this, for the tyme of their increasng, to preserve the young fawnes: So that, as those wilde beastes, that are already come to their season and perfection, for the seruice and vse of man to be taken away, there may againe be others, to grow vp in their places, to replenish the Fozrest with new supply, for, if the Deere, that are already, be daily killed and destroyed, and no care had for their increase againe, then the Fozrest will very soone come to be no fozrest,

rest, but onely a territozie of vacant ground: And therefore the Lawes haue appointed certain officers, onely to attend vpon the wild beastes, and the Clerk of the Forrest, at all times of the yeere, to preserve them from hurt, and to see them in safetie: and therefore chiefly in this time of Fawning, when the greatest danger of hurt is, when the yong ones cannot run nor shift for them selues. Canutus in his fourth Canon did appoint certein meane officers, to watch the Deere in the night time all the whole yeare: wherefore it is to be supposed, that they must be principally watched and regarded in this time of danger, if they shal be watched every night at all other times, when there is lesse danger.

Canutus Canon 4.

King Henry the second, in his Assise of Woodstock, did appoint, that twelue knights should be appointed in euery Forrest, to looke vnto the safetie of the wild beastes of the Forrest, which knights also are appointed to see, that other Officers of the Forrest, that haue the charge of those wild beastes, shall giue their attendance for their better safetie and peace.

Assisa forestarum de Woodstock articulo 8.

King Henry the third, by the Charter of the Forrest, did appoint, that the third Court of Swannimote should be holden and kept fifteene dayes before Midsummer, and that at that time, all the Forresters, Verderers, and Agisters, should meete together, for to make prouision for the quiet and safetie of the wild beastes, during the time of their Fawning, which is called the Fence moneth, or, Tempus vetitum.

Carta de Foresta articulo 8.

- 2 How long the Fence moneth doth last, and when the same doth begin and end.

**T**he Fence moneth doth alwaies begin fifteene dayes before Midsummer, according to the Charter of the Forrest,



## A Treatise of      Cap. xiiij.

**Fozrest**, videlicet, in initio quindecim dierum ante festum Sancti Iohannis Baptistæ, quando Agitatores nostri conueniunt pro feonatione bestiarum nostrarum, that is to say, in the beginning of fifteene daies befoze Midsummer, when the Agistors of the kings Fozrest shall meete together, for the fawning of the wild beastes of the Fozrest, and it doth end fifteene daies after Midsummer, which is vpon Saint Cyrils day.

*Assisa forestarum  
de Pickring  
fo. 20.*

It doth appeare by the Assises and Iters of Pickring, and Lancaster both, that the Fence moneth is alwayes fifteene dayes befoze Midsummer, and fifteene dayes after, quod nota. Euery common moneth is but xxviii. dayes, but the Fence moneth is xxxi. dayes.

*Assisa forestarum  
de Lancast.  
fo. 7.*

And it doth also appeare by the Assises of the Fozrest of Lancaster, that if any Swine be found in the Fozrest Tempore vetito, they shall be forfeited to the king. And therefore they shall be deliuered to the kings Clerderers, that they may answer the value thereof. And the same Law is of Sheepe and Goates, that are found in the Fozrest in mense vetito, & ideo warda facta. And therefore during this Fence moneth there must be diligent watch and ward kept in euery Bailiwiike thorough out all the Fozrest, that no man be suffered to go wandring vp and downe in the Fozrest out of the kinges common high way, least that he should steale or beare away the pong fawnes: Nor that no Swine be suffered in the Fozrest, least that they do distroy or deuour the pong fawnes: Nor no man be suffered to passe to and fro: Nor to fetch or driue any castell or beastes thorough the wast soyle of the kinges Fozrest, out of the high way, for feare of troubling or disquieting of the wild beastes in the time of their fawning.

*Assisa forestarum  
de Lancast.  
fo. 7.*

3 At what time the Fence moneth had his first beginning.

**T**he obseruing and keeping of the Fence moneth in Forrestes, seemeth to haue been in vse so long, that there is no certaine beginning to be shewed of it: And therfore the antiquitie of the same must needs be the greater, for that thing is alwaies verie auuncient, whose beginning cannot be shewed, & sith that there are now no Lawes for Forrests to be shewed, that were before the time of Canutus, and there can be no beginning of the Fence moneth shewed since the making of Canutus Lawes: Therefore it is to be thought, that the same was in vse, when that Canutus made his Canons of the Forrest Lawes. Master Sergeant Fleetwood saith, that the Fence moneth hath alwaies been kept with watch & ward in euery Baillywike throughout the whole Forrest, since the time of Canutus: for, saith he, although that the Forrest be a Sanctuary of peace for the wild beasts, yet in the time of their fawning, there must be diligent watch kept for the preservation of their quiet peace. It doth appear by the Assises of the Forrest of Lancaster in sundrie places, that the Fence moneth was kept in the time of Edw. the third with diligent watch and ward. It doth appear by the Charter of the Forrest, that the obseruing of the Fence moneth was before the time of Henry the third, for, in the same Charter the third Swannimote was appointed to be kept, when that the Agisters &c. do vse to meet together for the fawning of the wild beasts: so then the same was in vse, before the Charter of the Forrest was made, which was in the time of Henry the third. And therfore verie likely, as Master Fleetwood saith, to haue been from the time of Canutus his first constitutions of Forrest Lawes, so that when he made Lawes for the preservation of Forrests, & al the wild beasts therein,

Ma<sup>r</sup>. Serge-  
ant Fleet-  
wood in his  
collection of  
the Forrest  
Lawes fo. 5.

Anno 8. E. 3.  
Assisa Lan-  
castria fo. 7.

Carta de Fo-  
resta artic. 8.



by all meanes that might be, then the Fence moneth was therein included.

- 4 To what end, and for what causes, the same was first ordained and appointed.

**T**he ende and purpose of the first appointing of the Fence moneth, was onely, for the preservation of the increase of the wild beastes, to the end that the Forrest might still be replenished with new supplie, which otherwise could not continue, but onely by the carefull preservation of the yong ones, to grow vp in the places of those that are slaine, or otherwise decayed.

- 5 How euery Officer of the Forrest ought to demean himselfe in the time of the Fence moneth for the preservation of the wild beastes.

**A**nd because this may the better be accomplished and put in execution, there are diuers meet Officers appointed for Forrestes, videlicet, Forresters, Verderers, Regarders, Agisters, and Woodwardes, and all these are to ioyne together in this seruice for the Fence moneth: For, at the Court of Swannimote, holden fifteene daies before Midsummer vpon Saint Edmonds day, when the fence moneth doth begin, the Verderers, being the Judges of that Court, and the chiefest Officers, they are to direct all the other officers of the Forrest in their course. It doth appeare by the Iters of Lancaster, that the Forrest of Lancaster is deuided into sundrie wards, and that the Verderers of the same Forrest, at the Swannimote Court holden for the fence moneth, doe deuide themselves euery Verderer to his ward, or to diuers wardes, and then euery Verderer wythin his deuision, doth call  
all

all the other officers of the Forrest within the same deuision, as the Forresters, Regarders, Agisters, and Woodwardes, and giue vnto them directions, how, and in what maner the Forresters shall cause their watch to be kept wpythin euery of their seuerall deuisions, and in what places of those deuisions, and with what company of men: And this being done with the priuatie and consent of the Regarders, Agisters, and Woodwardes, the Regarders and Agisters, they do ioyne with the Forresters to be ready in ayding and assisting of them, in any thing requisite and necessarie, and the Woodwardes likewise do giue their attendance euery one within his owne charge, to watch with the Forresters. And at this time also the Forresters do giue open warning to euery house within euery Baili-wike in the Forrest, that they shall keepe in, all their dogges, and not suffer them to go abroad: And during this time, Pastures, that are expeditated according to the assises of the Forrest, may not be suffered to go from the houses of their Masters, nor any kind of dogges whatsoever. And in this time of warding, those, that do watch and ward, they haue this giuen them in charge by the Clerderers, videlicet:

- 1 First, That if they shall find any man suspiciously wandring vp and downe in the Forrest out of the high way, without some speciall businesse in this time, they shall attach him and bring him to the Clerderers.
- 2 Secondly, if they shall find any dogges running vp and downe like to do hurt, or to feare any Deare, they shall inquire whose dogge the same is, and they shall also take him vp and bring him to the Clerderers.
- 3 Also, if they shall see any man hunting or coursing any wild beast within the Forrest, they shall attach



him and bring him before the Verderers.

- 4 Also, if they shall see any bodie carping away of any yong fawne or fawnes, they shall apprehend him, and carrie him to the Verderers.
- 5 Also, if they shall find any man out of the kings high way, carrying of either Crosbow, Longbow, or Gunne, or any other Engin, to hurt or destroy any wild beast of the Forrest, they shall take them wpyth the same, and bring them to the Verderers of the Forrest.
- 6 Also, if they shall find any person or persons gathering of Rushes or Bents or such like within the wast soyle of the Forrest, or within the kings demesne woodes or lands, or els where, to the hurt of the wild beastes in this tyme, they shall attach him and cause him to be brought to the Verderers, there to find pledges.
- 7 Also, if they shall see any person or persons dypuing of any Swine into the Forrest to feede, they shall forthwith attach him and the Swine also, and carry him and the Swine to the Verderers.
- 8 Also, if they shall find any forener dypuing his Cattell into the wast soyle of the kings Forrest, to agist them there, they shall apprehend him and carrie him to the next Verderers.
- 9 Also, if they shall find any Deare hurt or dead, they shall inquire how he came by the same, and giue notice thereof to the Verderers.
- 10 Also, if they shall see any offenders or trespassers in the Forrest, they shall apprehend them, and carrie them before the next Verderer, if they can: And if they cannot take them themselves, then they shall make hup and crie after them untill they be taken.

11 Also,

**I** Also, if any man shall fetch or driue any kind of Cattell or beastes thorough the wast soyle of the kinges Forrest, to the hurt of the wild beastes, they shall attach him and carrie him befoze the Clerderrers: And this beeing done in euery point accordingly, and these Articles truely perfourmed, the wild beastes shall haue a quiet peace for their time of Fawning. And it doth appeare by the Assises of the Forrest of Lancaster and Pickring, that this very course was obserued and kept in euery point in the time of Edward the third. And also that by the Lawes of the Forrest, this course is to be obserued and kept in euery Forrest in the time of the fence Moneth: for otherwise, Forrestes will soone decay.

- 6 That no man ought to wander vp and downe in the Forrest in the time of the Fence moneth without some especiall businesse there.

**A**nd note, that the execution of the Lawes of the Forrest (as it doth appeare by the auncient Assises and Assis Lanc. fo. 29. Iters) haue been so seuerely looked vnto, for the preservation and quiet of the wild beastes with their Fawnes in this time, that no man might be suffered to haue any access or passage neere vnto any place where they do then frequent or resort.

- 7 Whereof it taketh the name of the Fence moneth.

**A**nd therefore this Moneth is called Mensis vetitus, that is to say, the forbidden Moneth, or, the moneth in the which euery man is forbidden to hunt, or to go into the  
¶ 4
Forrest,



## A Treatise of      Cap. xiiij.

Forrest, to disquiet the wild beastes. Some auncient For-  
resters haue bled to call this, Tempus vetitum, that is, the  
forbidden time, or, the time wherein euery man is forbid-  
den to wander vp and downe in the Forrest, or otherwise  
to disquiet the Deare there. And some auncient Forre-  
sters do call this month, the defence moneth, which we  
now call the fence moneth: Because that in this mo-  
neth, there must be watch and ward kept with men and  
weapons, for the fence or defence of the wild beastes, and  
for that cause the same is called the fence moneth, or,  
defence moneth.

## Chap. xiiij.

- 1 *Of Common and Commoners within the Forrest.*
- 2 *What Common is, and whereof the same taketh the  
name of Common.*
- 3 *How many sorts of Common there are, and in what  
maner they be vsed.*
- 4 *Who ought to haue Common within the Forrest.*
- 5 *Who ought not to haue Common within the Forrest.*
- 6 *What beastes are commonable within the Forrest, and  
what beastes are not.*
- 7 *Of Surchargers of the Forrest, and who is a surcharger  
by the Law.*
- 8 *How, and in what manner a Surcharger of the For-  
rest is to be punished by the Lawes of the For-  
rest.*

1 Of

## I. Of Common, and Commoners within the Forrest.



Although that the King, by his prerogative royall, may afforest the demesne woodes and landes, pastures and wast soyle of every man within this Realme, where-soever he will, (as alreadie before hath been declared,) yet by such afforestation of such woodes, landes, pastures, and wast soyles, the king doth not at any time thereby restraine, abridge, or prejudice any man of his right or interest of Common for such beastes, as are comonable within a Forrest: As it doth appeare by Carta de Foresta, where the king doth graunt, that all such Forrestes, as were afforested by king Henry the second, should be viewed by good and lawfull men, and if he haue afforested the woodes or landes of any other man, more then the kings owne demesne woodes or landes, to the hurt or prejudice of him, whose woodes the same is, that then forthwith the same shall be disafforested againe: and, if he haue afforested the kings owne proper woodes or landes, that then the same shall remaine a Forrest still: *Salua communia de herbagio & alijs in eadem Foresta, illis, qui prius eam habere consueverunt*, Sauing the common of herbage and of other thinges in the same Forrest to them, which before were accustomed to haue the same: Whereby it doth appeare, that wheresoever the king doth afforest his owne woodes or landes, he doth not by such afforestation, abridge or prejudice any man to haue Common in the same, that haue vled, or of right ought to haue Common therein, but doth still reserue the common of Herbage, as it was at the common Law: There-  
foze

Carta de Fo-  
resta artic. 1.



## A Treatise of      Cap. xiiij.

foze if the king, by the affozrestation of his owne proper woodes and landes, doth not restraine the right of any mans Common therein, a multo fortiori, when the king doth affozrest the woodes or landes of other men, he doth not thereby preiudice or abridge the right of any man, to haue Common in any wast soyle or other place wythin the Fozrest, where they haue vsed to haue Common, so that they do common there, with beastes that are comonable within a Fozrest: but doth still reserue euery mans right of common with beastes comonable, ( notwithstanding the affozrestation of the place ) as it was at the common Law befoze, in the Statute called Ordina-  
tio Forestæ, made and established in the 33. yeere of king Edward the first, beeing long after that he had confirmed Carta de Foresta: Which Statute of some is called the statute of the Purales, for that in deede the same was made in confirmation of the Purales: for, where as befoze by the first and third Articles of the Charter of the Fozrest, a disaffozrestation of all such landes, as were affozrested by king Henry the second, by king Richard the first, or, by king Iohn, was graunted, now by the said Statute of 33. of Edward the first, the said disaffozrestation was confirmed wyth a further explanation of the intent and meaning of the king, who shall haue Common wythin the Fozrest, and for what cause, and who shall not haue Common within the Fozrest in these woordes.

Ordinatio  
Forestæ anno  
33. E. 1. Stat. 5.

Carta de Fo-  
resta artic. 1.  
& 3.

The intent and will of our Lord the king is, that from henceforth, where purliw is, that is to say, where as woodes and landes be disaffozrested, they may claime to bee quite of the burthen and charge of the Fozrest: And whereas the kinges wild beastes of the Fozrest cannot haue their haunt and repaire vppon those woodes and landes so disaffozrested, as they might haue had, so  
long

long as the same was wythin the boundes of the Forrest, that such folkes (that is to say, such folke as are put out of the Forrest by the disafforestation) shall not haue Common, nor other easement wythin the woodes nor landes, which remaine wythin the boundes of the Forrest: But if any of them, that bee disafforested by the purliens, would rather be within the Forrest as they were before, then be out of the Forrest as they be now, it pleaseth the king verie well that they shall be receyued thereunto, so that they shall remaine in their auncient estate, and shall haue Common and other easement, as well as they had before &c. By this it appeareth also, that by the kinges afforestation of any woodes or landes of any mans, the king doth not thereby restrayne any man of his right of Common wyth such beastes, as are commonable within a Forrest, but doth leaue them still to their Common, as they were at the common Law before. And it seemeth also by the whole scope of thys Statute, that the will and meaning of the King is, that euerie man, that is a tenaunt of any land wythin the limittes and boundes of the Forrest, shall haue and enjoy Common in respect of the charge and burthen of the Forrest, because that the kinges wild beastes of the Forrest haue their continuall haunt and repaire, to feede in a quiet peace in euery part of their woodes and lands within the Forrest: Therefore the afforestation of any place by the King doth not restraine any man of any right of Common, either in the wast soyle of the king, or in the wast soyle of any other man, or in any other place, but doth seeme rather by thys Statute to haue enlarged their Common in the wast soyle of the king onely, or at the least way doth leaue euery mans right of Common in all Forrestes, in such sorte, as they were



were at the common Law befoze.

Now then, seeing that euery mans right of Common in Forrestes is reserued, and left remayning in the same degree, that it was at the common Law befoze; that the same was affozrested: Therefore it is necessarie first of all to declare, what Common is, and whereof the same taketh the name of Common, how many sorts of Common there are, who is to haue Common within a Forrest, in what manner he is to haue Common there, with what beastes, and in what respect.

2 What Common is, and whereof named Common.

**A**nd therefore it is to be vnderstood, that Common is properly the right or interest that a man hath to feede and pasture his beastes or cattell in the land or soyle of an other man. And it taketh the name of Common, a Communitate, of communitie, participation, or fellowship, because that most commonly, where men haue common of pasture for the feeding of their beastes or cattell, many mens cattell do vse to feede there together: and therefore Budæus doth call a Common of pasture, Compascuum, that is to say, a place wherein many mens cattell do feede together in communitie,

Budæus,

3 How many sorts of Common there are, and in what manner they may be vfed.

**A**nd at the Common Law there are fouer sorts of Common, that is to say, Common appurtenant, Common appendant, Common in grosse, and Common per vilinage. Common appurtenant is where a man is seised of a messuage and certein land, vnto the which messuage and land, the Common is appurtenant. And it is to be

Termino Hil.  
anno 10. H. 7.  
fo. 12. l. 1.

be noted, that at the Common Law, Common appurtenant is, to haue Common for all manner of beastes and cattell, aswel for such as are comonable, as for such beastes that are not comonable, that is to say, for geese, goates, sheepe, and swine, and therefore no man may haue such Common appurtenant for all manner of beastes within a Forrest, without a speciall graunt from the king, or the owner of the Forrest. A man may haue Common appurtenant vnto a messuage and to certain land for such beastes as are comonable within a Forrest, which is for all manner of beastes, except geese, goates, sheepe, and swine, for these beastes are not comonable within a Forrest.

Termino Pas.  
anno 9. E. 4.  
fo. 3. pla. 10.

Dyer fol. 70.  
pla. 39.  
25. Ass. pla. 8.  
37. H. 6. fo. 34  
pla. 20.

Common appendant is, where a man is seised of certain land arrable, vnto the which he hath Common appendant, and this Common can not bee appendant vnto a house, or vnto any other land, but onely vnto arrable land, and he that hath common appendant, may not common with all maner of beastes, but onely with such beastes as are comonable, which is with such beastes onely as do compass the land, vnto the which the same is appendant, in which sort of Common, geese, goates, sheepe, and swine, be excepted and alwaies forbidden.

Terminū Tri-  
nitatis 26. H.  
8. fo. 4. p. 15.

Common in grosse is, where a Lord of a manor, or any other, doth by his deede vnder his hand and seale graunt vnto another to haue Common within his manor, or in any other place certain, with certain beastes onely, or with all manner of beastes, this is Common in grosse, & such common a man may haue within a Forrest, by the graunt of the king only, or by the graunt of the owner of a Forrest.

Vide 22. Ass.  
pla. 16. in casu  
del prioris de  
Napleton.  
36. Ass. pla. 3.

Common by visnage, or Common by neighbourhood, (as some do call it,) is where the tenants of two Lords, which be seised of two Townes, where one lyeth nigh vnto an other, and euery of them haue vsed from the time, whereof the memory of man runneth not to the contrary,

Termino Hil.  
13. H. 7. fo. 13.  
p. 3.  
Vide 32. H. 8.  
Dyer fo. 47.  
p. 13.



contrary, to haue common in the other Towne, with all manner of beastes comonable, this is Common by visnage: And such common may be within a Forrest verie well by prescription. And these are the fower sorts of common that are at the Common Law.

4 Who ought to haue Common within the Forrest.

Trinitatis 15.  
E. 4. fo. 32. p.  
16. fo. 29. p.  
7.

Paſche anno  
20. E. 4. fo. 3.  
p. 15.

Trin anno 15  
E. 4. fo. 32. p.  
16. fo. 29. p.  
7.

**A**ND concerning this point, who shall haue Common within a Forrest, both by the Common Law, and by the Forrest Law, it seemeth to me, as I do vnderstand it, that he, that is an inhabitant within a Forrest, and can prescribe to haue Common within the kings wast soyle, or within the wast soyle of any other Lord within the Forrest, as appurtenant vnto his dwelling house onely, or vnto a dwelling house and certain land, with beastes comonable within a Forrest, this is a good prescription at the common Law, and therefore good by the Forrest law, because there is no Law, nor ordinance of the Forrest against it, and therefore he, that can so prescribe, shall haue Common within a Forrest according to his prescription. And a man may prescribe to haue Common, by reason that he is an inhabitant within such a towne which is an auncient towne, and that within the same towne there is a custome, that hath been vſed befoze the memory of man, that all the Inhabitants within the same towne haue vſed to haue Common within a certain place for all manner of beastes comonable, that are leuant and couchant within the same Towne, and this is a good prescription for Common, at the common Law, and it seemeth that such a prescription made for common within a Forrest, is a good prescription. But a man can not prescribe to haue Common by reason of his inhabitancy, that dwelleth in any new erection: for, all new erections, that are made within any Forrest, are Purpse-  
stures

stures by the Lawes of the Forrest: And therefore they, that do dwell in new erections, may not prescribe to haue Common by reason of their inhabitancy onely.

And it doth appeare by the Assises of the Forrest of Lancaster in anno 10. Ed. the first, That the Burgesles of Lancaster did make their claime to haue Common of pasture within the Forrest of Lancaster, and this claime being so made for Common of pasture for such beastes, as are comonable within a Forrest, was there holden for a good claime: But it was there holden for Law, that neyther Sheepe, Swine, nor Goates, are allowed to haue common within the Forrest, quia bidentes & porci non ibm, sunt animalia ad communicandum in foresta, sed prebent exilium ferarum in eadem, because that sheepe, goats, and hogges, are not beastes meete to comunon in a Forrest, for they do cause the exile of the wild beastes in the same.

Assisa forestae  
de Lancast.  
fo. 13. fo. 30.

And the verie like claime was there made by the Burgesles of Preston, to haue Common of pasture within the same Forrest, by reason of their inhabitancy, and allowed for a good claime. And it was adiudged in the Assises of Pickring, that no man may common with Goats within a Forrest, without especiall warrant, quia Capriolus non est bestia venationis neque forestae.

ibm.

Assisa forestae  
de Pickring  
fo. 67.

It was admitted and adiudged in the claime of one Lambeson, that to be quite of pawnage in tempore pagnagij, might be appurtenant vnto a mans freehold.

An office of a Woodward, and the bark of tymber trees felled, was claimed to be pertaining vnto a manor, and adiudged accordingly.

Assisa Pickring  
fo. 6.

To be quite and discharged of pawnage, and pawnage of Swine within a Forrest, may be by prescription appurtenant vnto landes, And likewise of Common of pasture, and to claime that he and his auncessors a tempore quo &c. is a good title, without saying, that he and his

Assisa Pickring  
fo. 16.

auri



## A Treatise of      Cap. xiiiij.

ancestors, and all they whose estate he hath in certaine landes &c, a tempore &c.

Pickring  
fo. 10.

Alisa de  
Pi kring fo.  
10.

In the Assises of Pickring, in the case of one Alice Gower, it was there adiudged, that no man might comon within the Forrest, with the beastes of straungers, but with his owne beastes that were comonable within the Forrest: And also that if the Forresters or Officers of the Forrest, do disturbe the cattell of any person or Towneship, to haue Common within the Forrest, whereby they haue wrong, or do take any money of them by extorcion, this is fineable at the Iustice Seat.

Itin Pickring  
fo. 182.

And if a man do make his claime for Common of pasture within a Forrest, or for any other libertie, by good title of prescription, or otherwise, if the Iustice of the Forrest do any thing stick at the allowing of any mans libertie claimed before them, then may the partie greeued haue a writ of allowance, or a writ to proceede to allowance. And where, if the Iustice of a Forrest doth stay ouerlong in allowing of a libertie that is claimed, then may the partie greeued purchase the kings writ of allowance, directed to the Iustice of the Forrest, commaunding him to allow the same: The tenour of which writ doth appeare in anno 10.E.3.

Itin Lancast.  
fo. 9. and fo.  
69.

Itin Pickring  
fo. 16.

And it doth appeare in the claime of the Abbot of Furneur, that if, at one Iustice seat, any claime be allowed, then at an other time, the same allowance may be pleaded, quod nota, and the Record of the allowance shall be sent downe by writ vnto the Iustices.

And in like manner, as a man may claime Common appurtenant within a Forrest, for all manner of beastes that are comonable by prescription: so a claime made by good title of prescription for Common appendant, or Common per visnage wythin a Forrest, is to be allowed.

It

It doth appeare in Anno 21. of E. 3. that the inhabitants of a towne did make their clayme before the Iustice of the Forrest of Pickring, to choose a Woodward of a certain wood within the same Forrest, and also to haue the windfall wood there, and reasonable Common of estouers in the said wood, as appendant vnto the inhabitants of the same towne, and they had their claime allowed them, Quod nota, and therfore it seemeth, in like manner, they may prescribe to haue Common appendant vnto certaine land belonging vnto the inhabitants of a towne, for beasts commonable within a Forrest that are Leuant and Cowchant within the same.

Michaelis 21.  
E. 3. fol. 49.  
P. 70.

So a man may haue also Common in Grosse within a Forrest, by the grant of the king, or the owner of the Forrest, as it doth appeare in Itinere Eborac' in An. 23. H. 3. where one W. being Lord and owner of a Forrest, did by his deed graunt vnto an Abbot, Common of pasture for 40. mares, and eight Stallions, within the Forrest of L. and because that the words of the graunt were, Quod Abbas præd' habeat vbique pasturam in Foresta, therfore it was there adiudged, that the graunto, that was the owner of the Forrest, could not inclose any parte of the same: by this it doth appeare, that a man may haue Common in Grosse within a Forrest: so that he, that hath a good title of prescription for to haue Common appurtenant, Common appendant, or, Common per visinage for beastes Commonable within a Forrest, may haue and enioy common within a Forrest, according to his prescription, by the lawes of the Forrest, for these three sorts of Common are onely by prescription.

M. Fitzh. in  
titulo Com-  
mon 25.

And he that hath Common in Grosse within a Forrest, likewise may vse & enioy his Common there, according to his deed & grant made of the same, for Common in grosse is by deed onely, and not by prescription. But it seemeth as well by the claime of the Abbot of Riual, as by diuers other

Itin Pickring  
fol. 15. 17. 18.



claimes, that after a liberty is graunted of any thing within the Forrest, if the grauntee do not vse the same continually, then the Non vser shall be inquired, for such Non vser is good cause of seiser.

Y<sup>tes</sup> Lancast<sup>r</sup>  
fol. 5.

And if any man do make a claime for any liberty or profit appender within the Forrest, before the Justice of the Forrest, & after make default, there the liberty or profit shall be seised into the kings hands, for that such a default is cause of seiser, in casu domini de Gerfingham and others.

Y<sup>tes</sup> Pickring  
fol. 15.

And if a man do claime by inheritance or otherwise, any profit appender within the Forrest, as Common of Estovers, or Common of pasture, or, such like, in this Case, the triall shall be by the Forresters, Clerverers, and Regarders, but not by the Agistors, prout patet &c. In case that the matter of the claime do require a triall by the Countrey, there the conclusion of the pleader shall be, Et hoc paratus est verificare prout Curia &c. Ideo inquiratur inde veritas per ministros eiusdem Forestæ, and in this Case, the Clerverers, Regarders, and Agistors, shall onely trie the Title, but yet not withstanding, you shall see very many presidents, that, when the Entree hath beene, Et hoc petit quod inquiratur per ministros eiusdem Forestæ &c. that this hath immediately ensued, viz. & quia videtur Curia hic, quod expeditum est & necesse ad inquirendum tam per ministros Forestæ prædictæ, quam per alios probos & legales homines &c. And thus you may see, that it is in the election of the Justices, whether that the ministers of the Forrest shall be impanelled with others, to try the Title of a claime, or onely themselves alone, but Quære, if there be any president, that the Countrey alone hath tried any Title of claime without the Ministers of the Forrest, for I doe not finde any such.

Lancaster fo.  
2. 3. 4.

Assise forestæ  
de Pickring  
fol. 10. 15.

It appeareth by the Assises of Pickring, in the claime of Iohn Melfa, and also in the claime of the Abbot of Perival, that

that they, that will make any claime before the Iustices of the Forrest at a Iustice seate, as for Common of pasture, or, Common of Estouers, or, any other profite appenden within the Forrest, they must put in their clayme the first day of the same Iustice seate, or els, at any day after, their claime shal not be receaued without a fine for the same, and then when any claime is once put in, if the same be in any point faulty, if they will amend their claime, then they must make a fine for the same.

5 Who ought not to haue Common within the Forrest.

**A**nd euen as he, that hath a Charter, or, other title of prescription, to haue Common within a Forrest, in any of those degrees aforesaid, may lawfully vse & enioy the same accordingly by the lawes of the Forrest, so on the contrary part, he, that hath neither Charter to Comon within the Forrest, nor can prescribe to haue Common there, in any of those three degrees aforesaid, is not allowed by the Forrest lawes to Common within a Forrest.

6 What beasts are Commonable within the Forrest, and what not.

**A**nd as I do take it, all manner of beastes are accounted Commonable within a Forrest: Geese, Goates, Sheepe, and Swine onely excepted, for these are not allowed to haue Common within a Forrest, neyther may any man prescribe to haue Common for these within a Forrest, because that such a prescription, can haue no lawfull beginning, for, to suffer such beastes to Common within a Forrest, Est ad magnum nocumentum ferarum Forestarum.

Dyer fo. 70.

p. 39.

25. Affis. p. 8.

37. H. 6. t. 34.

p. 20.



## 7 Of surchargers of the Forest, and who is a surcharger by the law.

**H**aving declared already, who may haue Common within a Forest, & who may not haue Common there, with what beasts they may Common there, and with what beasts they may not common there, & in what manner they may challenge their Common, and whē they are to make their claime for the same: now it is necessary to declare, with what number of beasts, euery man may Common, for he, that doth Common with more beasts then he hath right to Common withal in the Forest, is accompted a surcharger by the law, & such a surcharger is a trespasser of the forest, & therfore punishable: For, by the surcharging of the Forest with more beasts then they may Common withall, the wild beasts of the Forest are put to exile from thence.

In libro affisar. 22. p. 65.

And if any man, that hath Common appurtenant, or, Common appendant within a Forest to a certain number of beasts, doth common there with more beasts, then his number, that he ought to Common there, doth come vnto, the such a Commoner is a surcharger of the Forest, as he is a surcharger at the Common law.

In lib. affisar. 22. p. 65.

And if a man haue Common in grosse by a specialty, to Common with a certain number of beasts within a Forest, such a Commoner in grosse may vse his Common according to his specialty, but if he do Common in the Forest with more beasts, then he ought to do by his specialty, then such a Commoner is a surcharger by the Common law, and so is he also by the Forest Law.

In lib. affisar. 22. p. 65.

At the Common law, if a man haue Common appurtenant, or Common by specialty, to common in a certain place with his beasts sans number, without number, he shall not be accompted a surcharger, nor in a writ of admeasurement, he shall not be admeasured, but it seemeth by the Forest law, that

that if he, that hath comon within a Forrest to comon there sans number, do surcharge the comon with so many beasts, that the wild beasts of the kings Forrest can not haue sufficient feed there, then such a comoner in a Forrest shalbe accompted a surcharger, & shalbe punished as a surcharger of the kings Forrest, so that he, that hath a specialty to comon within the kings Forrest with his beasts sans number, yet it is to be understood by that worde sans number, that he must Comon with such a number of beasts there, that the wild beastes of the kings Forrest may haue also sufficient feed for them left there besides.

And this may seeme to be law, by the same reason, that sir Robert Brooke chief Justice of the Comon plees did allege in 12. of H. 8. where he saith, that if a man do grant Comon without number, yet the grauntee may not put in so many cattell to Comon there, but that the grauntoe may stil haue sufficient comon for him selfe in the same land to Comon with his beasts, for otherwise the grauntee is a surcharger, Eadem ratione, he, that hath Comon in grosse within a forrest, sans number, yet he must not Comon there with so many beasts, but that the wild beasts of the Forrest may still haue sufficient Herbage left remayning for their food, for, if any man do otherwise, he shalbe accompted a surcharger of the Forrest. And in like manner it is of him, that will claime Comon appurtenant within a Forrest, for beasts without number, yet, as I thinke in mine owne opinion, by the same reason, he is to vse his Common with such number of beasts, that the wild beasts of the Forrest may haue sufficient for their feed left remayning, for otherwise he is to be accompted a Surcharger of the Forrest, and so he, that hath Common appurtenant, Common appendant, Comon per visnage, or, Common in Grosse within a Forrest, if he do common with moze beasts then he ought to do, he is by the law accompted a surcharger of the Forrest. But now

M. Hesker fo.  
26.

Trin. 12. H. 8.  
fol. 2. p. 2. li-  
nea 21.

Dyer fol. 80.  
p. 59. in the  
Case of Stow  
parke.

Hil. An. 8. H.  
6. f. 26. p. 16.



here it may be asked by some, how shall it be knowne who be surchargers of the Forrest, and who be not, because there is no certen rate knowne, what number of beasts any one Commoner within the Forrest may Common withall. To this I answer, that it is easie to be knowen, who is a surcharger of the Forrest, by this meanes, First, to make a perfect estimate of the number of Acres, that the place of Common surcharged doth containe, and then to set downe how many Parishes, Villages, or Hamlets, haue right of Common in the same place, and likewise then to make a perfect estimate, what number of messuages and cotages there are in euery of them, and what land euery of them haue belonging vnto euerie messuage, or cottage, and then by knowing the certentie of the number of beasts, that there are vsually fedde vpon the Common, where by the same is surcharged, a perfect estimate is to be made ratably, what number of beasts euerie man that hath right of Common in the same, may keepe according to his quantitie of land that he holdeth, reseruing sufficient feede there, for the wilde beasts of the Forrest: And this being done, he, that is found to haue had more beasts Commoning within the wast soyle of the Forrest, then his rate doth allowe him to keepe, he is a surcharger of the Forrest. And this course is obserued at the Common Lawe, to auoid surcharging of Common, amongst Commoners, by a Writ of Admeasurement of pasture. And as Commoners at the Common Lawe, that do finde themselves greued by surcharging of their Common, may sue out a writt of Admeasurement, directed to the Sheriffe of the Shire, where they do claime Common, and thereby cause euery Commoner, that hath Common there, to be admeasured, and to common with no more beasts then his rate wil allow him: euen so, vpon the complaint of the officers of the Forrest, that the wast soyle of the Forrest is surcharged with  
fo

Libro in-  
trationis fol. 23.  
b. In adme-  
sument 1.

Libro in-  
trationis fol. 23.  
in adme-  
sument de past.

so many beasts Commoning there, that the Deere can haue no feed left for them, then a Commission may be grated out of the kings Court of Chauncery, directed vnto the kings Lifenant of the same Forrest, and to the Verderers, and chiefe Forresters of the same Forrest, commaunding them by vertue thereof, to inquire by the oth of good and lawfull men, what number of Acres, the place of Common, where in the surcharge is supposed to be made, doth containe, and what number of beasts there are commoning in the same, and whose beasts they are, what Parishes, Villages, & Hamlets, of right ought to haue Comon in the same, what nūber of messuages, & cotages, there are within euery of them, & what nūber of Acres of land, euery of them haue belonging thereunto, and then by considering what number of beasts may reasonably Common within the same, & yet leaue sufficient feed for the Deere, they shall rate & appoition euery man, what number of beasts, and what sort of beasts, euery man according to his portio may keepe, & then he, that doth keepe, or, that hath kept moze beasts then he ought to haue kept according to that rate, is to be accounted a surcharger of the Forrest, for, euery man must Common there in such sort, that the Deere may haue sufficient pasture left for their feed, for otherwise, euery man that doth Comon there with moze beasts then he may do after such a rate, that the Deere may haue sufficient feed left besides for them, is by the Law a surcharger of the Forrest.

Libro intra-  
ionis ibidē.

- 8 How and in what manner a surcharger of the Forrest, is to be punished by the lawes of the Forrest,

**B**Ut now, he, that is found to be a Surcharger of the Forrest, how and in what manner he is to be punished for the same, that resteth yet to be spoken of. And for that, it is



Register fol.  
157. In titulo  
de admenfu-  
ratione pa-  
sturæ,

Fitzh. Nat.  
breuiū fo. 126  
H.

Westm 2. ca.  
3.

Affisa forestæ  
de Pickr. An.  
10. E. 3. f. 12.

to be vnderstood, that amongst Commoners at the Comon Law, if one of them do Surcharge the Comon with moze beasts then he ought to keepe, according to his tenure or portion, to the hurt of all the residue of the Comoners, if they, that do find themselves griued, do bring their writ of Admeasurement of pasture, then euery Commoner shalbe admeasured thereby, and rated to a certen number of beasts, and what beasts euery man may Common withal, and if that, after such an admeasurement made by the Sheriffe, any of those Commoners do eftsoones surcharge the same Comon, then any of the other Commoners that are thereby griued, may bring a writ De secunda superoneratione pasturæ, directed to the Sheriffe: (reciting therein the first admeasurement:) commaunding him that he shall go vnto the said Comon, whereas the Surcharge is supposed to be made, and there diligently to inquire by the oth of good and lawfull men, and if the Sheriffe vpon such inquiry taken shall finde a second Surcharge there to be made, then the Surcharger shall pay dammages vnto the partie griued, and also the ouerplus of the beasts, that are found to Surcharge the Comon, shalbe forfeited to the King by the Statute of Westminster the second. But whether the beasts of those that doe Surcharge the wast soyle of the Kings Forrest (I meane the beastes that are Commoning there moze then there ought to be) be forfeited to the King, or not, by the Forrest Lawe, Quære, for, in all the Iters and Assises of Pickring and Lancaster, I can finde no president, that a Surcharger of the Forrest shall forfeit his beasts that doo surcharge the Forrest. But it doeth appeare in the Assises of Pickring in Anno 10. of Edward 3. that a Surcharger of the Forrest shalbe indicted for the same, and make his fine to the King for that offence. But yet it may seeme to stande with reason, that after that a commission, in the

the nature of a writ of admeasurement at the common law, hath beene graunted out to such Commissioners and Officers of the Forrest, as aforesaid, to auoid surcharging of the Forrest, and an admeasurement thereof made, and euery man rated according to his portion, what beasts, and what number of euery of them, he may common withall, if afterwards any commoner there doe surcharge the common againe, with a greater number then he ought by his rate and portion to keepe there, that then those beasts, that are so found commoning there aboute his number, shalbe forfeited.

But whether this be law in a Forrest or not, quære, for I doe doubt, but I doe finde in many places in the Assises of Lancaster and Pickring, that the surchargers of the Forrest were indicted for the same, and thereupon imprisoned and made their fine for that offence. And it doth appeare in my Lord Diers booke in the case of Stow Parke, where the graantee of the same, hauing also the Agistment of the Parke graunted him, did by Agisting of more beasts then he ought to agist there, surcharge the Parke, so that the Deere could not haue sufficient feed left for them there, and there it was not fully agreed, what remedy the graunto was to haue, but left with a quære.

Assisa forestar  
de Pickring  
fol. 12.

Dyer fol. 80.  
p. 59.

By the Forrest Law, he, that hath or claymeth to haue any liberty or profit within a Forrest, by graunt or by title of prescription, and doth abuse the same by vsing of it in any other order, then his graunt or title of prescription doth warrant, as in the case of the Pryor of Lancaster, for taking of Viridem Boscum, pro mor tuo Bosco, And likewise in the case of the Burgises of Lancaster, for their clayme for such abuser, there doth grow seiser, and for the abusing of any such liberty, the same liberty must be seised into the kings hands, and he, that hath so abused the same, is to make his fine for it, and so to haue his liberty againe. Therefore quære, if he, that hath a lawfull title of prescription

Ass. Lancast.  
fo. 3. 64.

for



for to common within a Forrest, and doeth abuse the same by surcharging of the Forrest with more beastes then hee ought to comon withal there, if this be cause of seiser of his common into the Kings hands, or not.

## Chap. xv.

- 1 *Of the Driftes of the Forrest.*
- 2 *At what time of the yeare the Forrest shall be Driven.*
- 3 *How often in euery yeare the Forrest shall be Driven.*
- 4 *For what cause the Forest shall be so Driven.*
- 5 *By whom the Forrest shall be Driven.*
- 6 *In what manner the Driftes of the Forrest shall be made.*
- 7 *In what places, and Forrests, Driftes shall be so made.*
- 8 *Of what cattell or beastes they are to make their Drifts of.*

## 1 Of the Driftes of the Forrest.

**T**HE Officers of the Kinges Forrest, doe vse to Drive the wast soile of the Forrest, in euery place where there is commoning with beastes, to the intent to auoyde the surcharging of the same with ouer manye beastes by those, that haue right of common therein, and also to auoid the commoning of forreners, that haue no right of common at all within the Forrest.

## 2 At what time of the yeare the Forrest shall be driuen.

**I**t seemeth by the Assises of the Forrest of Pickring and Lancaster, that the Officers of the Forrest there, did vse to make two driftes of their Forrest euery yeare, the first of those driftes was made yearely fiftene daies before Midsummer, at the beginning of the Fence moneth, because that in that moneth, no man might haue any beastes commoning within the wast soile of the Forrest, and then by that drift, the forrest was cleane emptied and auoided of all beastes and cattell, during the fence moneth onely: And euery man that had any beastes or cattell commoning within the forrest at that time, was forced at that drift to come and challenge their beastes, and to take them away, for els, they were taken and seised by the Officers of the Forrest, to the vse of the king, as Strayes of the Forrest. And if the cattell of any forreners, that were dwelling out of the lymits and boundes of the Forrest, were founde there commoning, that had no right of common, then the owners of those beastes were punished accordyng to the lawe in that behalfe. The second drift of the Forrest was vled to be made about Holy Roode day, when that the Officers of the kings Forrest, did begin to Agist the kings demeasne woods, and then at that time, al beastes and cattell of all sortes whatsoeuer they were, that were then found within the same comon, were taken by the officers of the said forrest, and driuen to some couenient place to be impounded there nere vnto adioining, and then by the officers, that is to say, by the vnder forresters, walkers, & woodwards of euery Parish, Tillage and Hamlet, in euery ward warning was giuen, that euery man, that had any cattell or beastes commoning within Eastmore in such a Forrest, that

Itiner. Lanc.  
fol. 123.Itiner. Lanc.  
fol 124.



that they should forthwith repaire to such a place, where their beasts were then impounded, and then vpon such warning and notice giuen, euery man, that had any beasts commoning within the same Forrest, did forthwith come, and fetch away their beasts, and vpon the deliuey of their cattell by the Officers of the Forrest, a perfect Role therof was kept, what number of beasts euery commoner had, and what beasts they were, of what place he was abiding, what free land he had of his owne, or of any other mans in his occupation or tenure, and this order was yearely obserued and kept, whereby it was not onely knowne, who had right of common there, and with what number of beasts, euery man might common, and who was a surcharger, But also, who did vse to Agist the beasts of any straungers or forreners within the Forrest, And what forreners had any cattell commoning within the Forrest, for, by the lawes of the Forrest, no forrener may common within the Forrest, without a graunt or charter from the King so to doe, and if the beasts or cattell of any forrener be found feeding and commoning within the wast soyle of the Forrest, which haue escaped thither by chaunce, then the owner of those beasts is to be amerced, for euery foote of those beasts i. d. for the first offence, and if they be found to haue escaped so againe the second time, then the owner of them is likewise to be amerced for euery foote i. d. But if they be found so offending againe the third time, then those beasts are forfeited to the king, and then they shalbe seised by the Forresters, and deliuered to the Clerderers of the same Forrest, & this is to be entred into their Roles of the Forrest, that the king may be answered of the valew thereof, but this seemeth to be Law for those beasts of forreners, that do escape of themselves into the Forrest, without the voluntary gift or procurement of the owner of those beasts, but if such a forrener of his owne voluntary will doe giue his beasts into

Assisa forestarum  
de Pickring  
fol. 15. 17. 19.

Assisa & consue-  
tudines forestarum  
arti.  
15.

into the kinges Forrest to common there, quare if those beastes be not forfeited for the first offence. It standeth with reason, that the beastes and cattell of such, as are forreners dwelling out of the Forrest, and hauing no free land in their owne Tenure within the Forrest, should be barred, to comon within the wast soile of the Forrest, for, the common within the Forrest is of Righe belonging vnto the inhabitants, and to such as haue landes and tenementes in their Tenure and occupation within the Forrest, for, they only are vnder the bondage and burthen of the Forrest, for, in their cozne, meadowes, and pastures, the Deere must haue their repaire and quiet feede, and for that cause they are to take the benefit of the common for it, according to this ground at the common Lawe, *Qui sentit onus, sentire debet & commodum, & contra*, he that beareth the burthen and charge, ought also to tast of the benefit thereof.

*In decretalli  
Bonifacij. 8.*

3 Howe often in euery yeare the Forrest  
shalbe driuen.

**A**ND although that the Officers of the Forrest of Lancaster, did vse to driue their Forrest twice in the yeare, as aforesaid: yet there is no doubt, but that vpon any reasonable cause, the Officers of euery Forrest, may driue their Forests oftner if they will, and that for the benefite of the king, in the auoyding of Surchargers of the Forrest, and of forreners, which common there, hauing no right of common. The Officers of the Forrest may driue the common, as often as neede shall require. It is appointed by the statute of 32. of king H. 8. that all Forrests within the realme of England, and Wales, and the Marches of the same, and euery of them, shalbe driuen yearely at the feast of S. Michaell the Archangell, or, within fifteene daies next after.

*Itiner. Lanc.  
fol. 129.*

*32. H. 8. c. 13.*

And also it doth appeare by the same Statute of 32. of  
king.



32. H. 8. c. 8.

king Henry the 8. cap. 8. that euerie Forrest and Chase &c. within the Realme of England and Wales, and the marches of the same, and euerie of them, may be driuen at any other season and time of the yeare, whensoever and as often, as they shall thinke meete and conuenient..

4 For what cause the Forrest shalbe so driuen.

32. H. 8. c. 8.

**A**ND it seemeth, that Forrests are to be driuen chiefly for three causes, the first is, for the auoiding of surcharg- ing of the Common within euerie Forrest, by such as haue right of Common there, that no commoner doe Common with more beastes then he may lawfully doe. Secondly, for the auoiding of Forreners to Common there, that haue no right of Common at all within the Forrest. And thirdly, to the end that no beastes bee suffered to Common within the Forrest, but such as are commonable. Geese, Goates, Sheepe nor Swine, are not beastes commonable within a Forrest, as alreadie before hath beene declared, & by the sta- tute of 32. of K. H. 8. Stoned horses, being aboue the age of two yerres, & being not of the altitude & height of 15. hand- fuls high, to be measured from the lowest part of the hooft of the forefoote, vnto the highest part of the withers, and euerie handfull to containe foure inches of the Standard, are forbidden to Common within any Forrest or Chase being within any of the shieres & territories of Norfolk, Suffolk Cambridge, Buckingham, Huntingt. Essex, Kent, South- hamshire, Northwillshire, Oxford, Barke, Worcester, Gloucester, Somerset, Northwales, Southwales, Bed- ford, Warwicke, Northampton, Dorsetshire, Cheshire, Staffordshire, the Countie of the Citie of Yorke, the towne and libertie of Gloucester, the Countie of the towne of King- ston vpon Hull, the Countie palantine of Lancaster, the Countie of Saloppe, Leicester, Herford, and Lincolne, so that

that now by that Statute, such horses, are not beasts commonable within any Forrest or Chase, in any of those shires aforesaid neither, and if such bee found in any Forrest or Chase, as aforesaid, vpon any drift thereof made, or otherwise, they are forfeited as it doth appeare by the said Statute. Therefore see the said Statute, and the Statute of 8. Eliz. cap. 8.

5 By whome the Forrest shalbe driuen.

**I**t doth appeare by the Assises of Lancaster and Pickering Forrest, that there the drifts of the Forrest were alwaies made, by all the Officers of attendance of the Forrest, that is to say, by the Forresters, Clerderers, Regarders, Agistors, Woodwards, the Baylife, or Baylifes, and the foure men, Pickr. fo. 32. and the Reue of euerie towne, and it seemeth verie requisite and necessarie that all those Officers should of necessity, be at euerie drift of the Forrest, as well for their helpe, and assistance in the driuing of the same, as also for the giuing of notice one vnto an other, who are to haue Common in euerie towne, and with what number of beastes, & with what beastes, and also who are Forreners, and whose beastes they are, which they shall find within the same Common, whereby the owners may haue notice thereof.

By the Statute of 32. of K.H. 8. it is appointed, that all Forrests & Chales within the realme of England & Wales and the marches of the same, & euerie of them, shalbe driuen yearely at the feast of S. Michael the Archangel, or within 15. daies then next after, & there, that drift is appointed to be made by the Officers of euerie Forrest or Chase onely, and by no other, & all drifts that are made at any other time or season of the yeare, in any Forrest or Chase, the same shalbe made & driuen, by the Officers therof, & also by the Constable, Baylifes, Hedboroughes, Bursholders & Tithingmen,



men, and euery of them within the lymits of their offices,  
quod nota.

6 In what manner the Driftes of the Forrest shall  
be made.

*Affisa forestar  
Lanc, fo. 69.*

**I**n what manner the Driftes of the Forrest are to be  
made, is shewed and declared by the Assises of Lancaster,  
in Anno 10. E. 3. where it doth appeare, that at a certaine  
day appointed by the generall agreement of all the officers  
of the Forrest, the Clerderers doe deuide themselves euery  
one vnto his owne ward or p[re]cinct, and euery Clerderer to  
call vnto him, all the other Officers of that ward or deuisi-  
on, and then proceeding in their drifts in euery seuerall di-  
uision, vntill that they haue gone throughout all the whole  
Forrest in euery part where there is any common or wast  
Soyle.

7 In what places, and, Forrests, Driftes shall  
be so made.

*32. H. 8. c. 8.*

**A**nd this course may be vsed in all Forrests and Cha-  
ses within this Realme, where there are any Deere  
or other wilde beasts, but of necessity there must be driftes  
made either in this sort, or els in such sort, as driftes haue  
vsually beene made, in euery Forrest and Chase, where there  
are any wilde beasts of Ctenery or of Chase remaining, for  
the gouernment of the commons within the same, and the  
preseruatiō of the Herbage thereof for the wilde beastes  
therein. By the Statute aforesaide of 32. of king H. 8.  
Driftes are appointed to be made in all Forrests and Chases  
in England, and Wales, and in the Marches of the same,  
at the feast of Saint Michaell or within fifteene daies next  
after, and at other times as neede shall require.

- 8 Of what cattell or beasts, they are to make their driftes of.

**A**ND in these drifts of the Forrests & Chales aforesaid, al the beasts & cattel, whatsoeuer beasts or cattel they be, that be there found Commoning, or whose soeuer they be, they must all be driuen out of the Common, to some convenient place, to pounce neere hand, where they may be detained, vntill that the owners shall come to challenge their owne beasts and cattell, as aforesaid, & then euery Commoner, according to his number with beastes Commonable, may put them to pasture and feeding againe in the Common where they were.

### Chap. xvj.

- 1 Of keeping of dogges within a Forrest.
- 2 Who may keepe dogges within a Forrest.
- 3 What dogges may be kept within a Forrest.
- 4 What dogges may not be kept within a Forrest.
- 5 Of hambling or expeditating of dogges within a Forrest and to what end.
- 6 What dogges shalbe expeditated.
- 7 By whom they are to be expeditated.
- 8 In what manner they are to be expeditated.
- 9 In what places dogges are to be expeditated.
- 10 What forfeiture there doth grow to the king for keeping of dogges vnexpeditated within a Forrest.
- 11 Who shalbe chargeable to pay the same forfeiture and in what manner.
- 12 Whereof the same doth take the name of Expeditating or Hambling.



## 1 Of keeping of Dogges within a Forrest.

**T**he lawes of the Forrest do so greatly regard the necessarie vse and seruice of dogges, for the safety of mens houses & goods that do dwell within Forrests, that therefore in some sort, some manner of dogges are tollerable to be kept in Forrests, by euery man: and againe, some sorts of Dogges are not tollerable to be kept within a Forrest, but onely by certaine men.

## 2 Who may keepe Dogges within a Forrest.

**A**nd therfore it is to be vnderstood, that euery dweller & inhabitant within any Forrest of any worth may keepe a Mastiue about his house, for the defence of his house & his goods, so that euery such Mastiue be lawfully expeditated and lawed according to the Assises of the Forrest, but most chiefly Farmers & wealthy Freeholders. It doth appeare by the Assises of the Forrest of king H. the 2. called the Assises of Woodstock, that Mastiues shalbe expeditated in euery Forrest, where the wild beasts haue any peace, whereby it is to be gathered, that therefore it is lawfull for men, that do dwell within such a Forrest where the wild beasts haue a peace, to keepe Mastiues there, for els it were in vaine to haue them expeditated.

Assisa de  
Woodstock.  
H. 2. cap. 6.

Carta de fo-  
resta artic. 6.

And also it doth appeare by Carta de Foresta, that the inquire for the lawing & expeditating of Mastiues or dogges within the kings Forrest, shalbe made, when the Regard of the Forrest is made, and that is, euery third yeere, and then the lawing of Mastiues shalbe done by the viewe and testimonye

monie of honest men, & not otherwise, Therefore it is lawfull for men, that do dwell within Forrests, to keepe Mastiues being lawed or expeditated. And in the Assises & customs of the Forrest, made & established in Anno 6. of Ed. the 1. it is ordained, *Quod si quis Mastiuus inuentus fuerit super aliquam feram, & mutulatus fuerit, ipse, cuius erat, quietus erit de illo facto*, if any Mastiue be found vpon any Deere, and the same Mastiue being expeditated, then he, whose Mastiue the same is, shalbe quite of that deed. By this it doth appeare, that it is lawfull for the inhabitants in Forrests, to keepe Mastiues that are expeditated & lawed, yea although that such Mastiues do sometimes chaunce to fasten vpon a Deere, and here note that this word, *Mutulatus*, is not taken nor vnderstood for Musselled, as some do affirme, but for maymed, lamed, or, expeditated, according to the Assises and Lawes of the Forrest, for there is no law to mussell Mastiues: and againe, in the same Assises and Customs of the Forrest it is ordained, *Quod nullus messarius ducat secum Mastiuū magnum ad fugandum feras domini regis &c.* No Hower shall bring with him any great Mastiue to the field, to driue away the kings Deere, but little Dogges to looke to things without the couert. By this it is to be gathered, that men, that do dwell within Forrest, may keepe Mastiues about their houses being expeditated, although that they may not carie them to the field with the to Hunt or feare away the Deere. And in the Charter of the Forrest in the first Article, the wordes are, *Et ille cuius Canis inuentus fuerit non expeditatus, det pro misericordia, tres solidos*, that is to say, and he, whose Mastiue shalbe found remayning within the Forrest not being expeditated, shalbe amerced for the keeping of such a Mastiue vnerpeditated thre shillings. By this it doth manifestly appeare, that Mastiues may be kept within the Forrest beyng expeditated, but not otherwise,

Assisa & consuetudines forrestarum artic. 8.

Assisa & consuetudines forrestarum artic. 16.

Carta de Foresta artic. 6.



Carta de Fo-  
resta artic. 6.

wise, and this Law is to be vnderstood of Mastiues onely within the Forrest, for the Mastiues that are out of the Forrest, they are out of the danger of this Law, & the words in the beginning of the first article of Carta de Foresta are these, *Inquisitio vel visus de expeditatione Canum existentium in Foresta nostra, de cetero fiat quando fieri debet regardū &c.* The inquiry & view of the expeditating of Mastiues remaining within our Forrest (saith the king) from henceforth shal be made, when the regard is made &c. Whereby it is plainly proued by these wordes, The expeditating of Mastiues remaining within our Forrest, that mastiues being expeditated, may lawfully be kept within Forrests, and because there is no particuler Lawe to appoint any difference of men within Forrests, who may keepe these Mastiues specially, therefore it is to be vnderstood generally, that euery Gentlemā, Husbandmā, Farmer & householder of any worth, dwelling within any Forrest, may keep Mastiues being expeditated, according to the Assise of the Forrest for the safeguard of their houses and goods.

### 3 What dogges may be kept within a Forrest.

Canuus Ca-  
non 33.

There are two sorts of dogs that the lawes of the Forrest do generally allow to be kept within Forrests without danger, that is to say, the Mastife being expeditated & lawed, & also, the litle dogges which are spokē of in the 32. Canon of Canut<sup>o</sup>, *Quia manifeste cōstat in ijs nihil esse periculi, cui libet licebit sine genuisciscione eos custodire*, because, saith he, it doth manifestly appeare, that in the there is no dāger, it shal be lawfull for euery mā to keepe such litle dogs without lawing. And againe, such litle Dogs are spoken of in the Assises and Customes of the Forrest in the 16. Article in these wordes, *Nullus messarius ducat secum Mastiuum magnum ad fugandum feras Domini regis*, sed

sed paruos catulos ad expectandum extra coopertum, No  
 Hower or Haruest man shall bring any great Mastife  
 with him to the field, to drive away the kings Deere, but  
 little dogs to looke to things without the couert: By this  
 it is proued, that such little dogges may be kept within a  
 Forrest, and it is lawfull for Howers and Haruest men  
 to bring them to the field with them, and there are also  
 two other sortes of dogges, that may be kept by some men  
 in certaine places within some Forrests, and those are  
 Grayhoundes and Mastiues vnerpeditated. It appea-  
 reth in the Assises of Pickring Anno 10. Ed. 3. that one  
 made his claime to be quite of Footegeld, which is to  
 keepe dogges within the Forrest vnlawed, without anie  
 amerciaments, fine or forseiture, and that was allowed  
 him by reason of a graunt made vnto him or to some of his  
 aunccestors, but Quere if a man may make such a claime  
 by prescription onely, for, it seemeth that no man may, for  
 without a Charter, such a prescription cannot haue any law-  
 full beginning.

Assisa & con-  
 suetudines fo-  
 restæ art. 16.

Assisa forestæ  
 de Pickring  
 fol. 17.

In the assises and customes of the Forrest in the 17. ar-  
 ticle, there is mencion made of keeping of Mastiues in  
 Forrests vnerpeditated, and also, of Greyhoundes, in these  
 wordes, De his qui clamant habere libertates sicut Canes  
 inexpeditatos & Leporarios infra metas Forestæ, nihil  
 eis faciendum sine warranto domini regis vel Iusticiario-  
 rum suorum, of those, which clayme to haue any Liber-  
 ties or Priuiledges, as to keepe dogges vnlawed, and  
 Greyhoundes within the bounds and limittes of the For-  
 rest, there shalbe nothing done vnto them, without the  
 Kings warrant or the warrant of his Iustices of the For-  
 rest. By this it appeareth, that he, that hath a lawfull  
 claime by good Title, may keepe Mastiues within a For-  
 rest vnerpeditated, and by such a like claime he may keepe  
 Greyhoundes within a Forrest also, but it seemeth that

Assisa & con-  
 suetudines fo-  
 restæ art. 17.



such a clayme must be by reason of some graunt from the king, rather then by any prescription, Sed de hoc quære.

4 What Dogges may not be kept within a Forrest.

**A**nd therfore within a Forrest no Dogges may be kept, without a good clayme by reason of a graunt from the king, or other owner of the Forrest, but onely Mastiues Expeditated, and such little Dogges, as aforesaid, for, Greyhounds and Spaniels, are generally forbidden to be kept within a Forrest, for, as it hath beene declared already, Mastiues may not be kept within Forrests except that they be lawes, and yet there is lesse daunger in Mastiues, then there is in Greyhounds, and there is no Lawe to expeditate Greyhoundes, because that they are not to be kepte in a Forrest, but onely by a graunt from the king.

*Assise & consuetudines forrestæ art. 17.*

In the Assises and Customes of the Forrest, it is ordeined that those, that do clayme any Libertties or Priuiledges, as to keepe Dogges vnerpeditated, and to keepe Greyhoundes within the boundes of the Forrest, that nothing shalbe done vnto them y haue such claymes, without the kings warrant or the warrant of the Iustices of the Forrest. By this it appeareth, that Greyhoundes may not be kept within a Forrest without a good claime or warrant, no more then Mastiues may vnerpeditated, for, if it were lawfull for men to keepe Greyhoundes in the Forrest without a good clayme for the same, it were needlesse to make a clayme for it, and so in like sorte of other things.

*Pickring fol. 129.*

And it doth appeare by sundry claimes in the Assises and Iters of Pickring, that men haue claymed there, to Hawke, and hunt the Hare, within certen libertties, and also

also to keepe Spaniels. By this it is to be gathered, that therefore Spaniels are not lawfull to be kept within a Forrest without a clayme for the same, for, if they were, then it were in vaine to make a clayme for that thing, which were lawfull otherwise. It doth appeare, by the Lawes of Canutus, in his 31. Canon, Quod nullus mediocris habebit, nec custodiet Canes quos Angli Greyhounds appellant &c. that no meane man shall haue nor keepe those Dogges, which English men do call Greyhounds, within the Forrest, so that it seemeth, that euen from the first beginning of Forrest Lawes, Greyhounds haue alwayes beene forbidden to be kept in Forrests.

Canutus Ca-  
non 31.

5 Of Hambling or expeditating of Dogs within a Forrest, and to what end.

**T**hose Dogges, that are generally to be kept within a Forrest, must epyther be such, as are not able of themselves to hurt the Deere, or els such Dogges, as the Lawe hath appointed to be lawed, and made vnable to hurt the Deere, which kind of lawing of Dogges, is now called Expeditating of Dogges, but the auncient Forresters were wont to call it Hambling of Dogges, and this lawing of Dogges was first ordayned for the safetie and quiet of the Deere and wild beastes. And this is to be inquired of by the Regardors of the Forrest every third yeere, what dogs be expeditated, and what Dogges are not, and if there be any Dogges kept within the Forrest, that are not expeditated, the Regarders are to present the same, & who doth kepe any such Dogs, and vpon their presentment, such Dogges are to be lawed, & also the owners of such Dogges are to be amerced 3. s. for the keeping of such Dogges vnlawed, and euery third yeere vpon the presentment and testimonie

Carta de fo-  
resta artic. 6.



of the Regarders, there ought to be a generall expeditation of all Bastiues in euery ward or bayliwicke throughout all the Forrest.

6 What dogges shalbe expeditated.

Carta de foresta artic. 6.

**B**Ut now here it may be asked, what dogges they are, that shalbe lawed or expeditated, because the wordes of Carta de Foresta in the first article are, Inquisitio vel visus de expeditatione canum existentium in Foresta &c. the inquirie or biewe of the expeditating of dogges within the Forrest &c. and doth not there declare, what sorte of dogges, and this worde Canis, a dogge, may be taken for anie kinde of dogge, and therefore it may seeme doubtful to some, what sorte of dogges they are onely that are to be expeditated, seing that the letter of the Lawe is so generally spoken of all dogges. And likewise in an other place in the same article, the wordes are, Et ille, cuius Canis inuentus fuerit &c. And he whose dogge shalbe found then vnerpeditated, shalbe amerced for the same three shillings, here, this word Canis, may be taken for any kind of dogge. And againe, in the same article the wordes are, Nec expeditentur Canes, neyther shall dogges be expeditated, but in such places where they haue beene accustomed to be expeditated at the tyme of the first coronation of king Henrie the second. And in the Assises and customs of the Forrest in the 17. Article, the words are, De his qui clamât habere libertates, sicut Canes in expeditatos &c. of those, that claime to haue liberties, as dogges vnerpeditated. And in all these places, this word Canis, without any other additiō or differēce, is vsed, being a general word, that may be taken indifferently for all kind of dogges. To this I answere, that, notwithstanding that this worde

Assisa & consuetudines foresta art. 17.

Canis

Canis onely, is vſed in all theſe places, which may be taken for any manner of Dogge, yet the ſame is ment and intended by the Law, for Maſtiues onely, and for no other Dogges, for prooſe hereof, in the ſaide ſirt Article of the Charter of the Forreſt, there is mention made, *de expeditatione Canum*, & then it followeth, *Talis autem Expeditatio fiat per aſſiſam communiter vſitatam &c.* And ſaith, ſuch Expeditating or Lawing of Dogges, ſhalbe made by the aſſiſe commonly vſed, which is ment, the aſſiſes of King Henry the ſecond, and then ſetteth downe there the manner how they ſhalbe Expeditated, and ſaith further, that Dogges ſhall not be Expeditated, but in places where they haue vſed to be Expeditated at the time of the ſirt Coronation of King Henry the ſecond, ſo that all that whole Article of *Carta de Foreſta*, hath relation onely vnto the aſſiſes of the ſaid King Henry the ſecond, which were befoze *Carta de Foreſta*, and then in the aſſiſes of King Henry the ſecond, in the ſirt Article it appeareth, that this word *Canis*, is ment and intended onely for Maſtiues, and for no other Dogges, for, the words there are theſe. *Item Rex præcipit quod expeditatio Maſtiuorum fiat vbicunque feræ ſuæ pacem habent vel habere Conſueuerunt*, alſo the King commandeth, that the Expeditating of Maſtiues ſhalbe made in euerie place where his wilde beaſtes haue a peace, or haue vſed to haue a peace. Heere you may plainly perceiue, that theſe words *Expeditatio Canum*, are explained by theſe words *Expeditatio Maſtiuorum*, and ſo then it is verie plaine, that this worde *Canis* is ment and intended onely for Maſtiues and for no other Dogges. And as this ſirt Article in *Carta de Foreſta*, hauing relation to a former law made in the time of King Henry the ſecond, by which this word *Canis* is there explained to be ment and intended but onely for one ſort of Dogges, that is to ſay, for Maſtiues and for no other, ſo likewise this word *Canis* in that place, is alſo explained

*Aſſiſa foreſtæ*  
H. 2. art. 6.  
called the aſſiſes of Woodſto. ke.



Assise & Con-  
suetudines fo-  
restarum Artic. 9.

plained, what sort of Dogges the same shall extend vnto, by a later law made in the first yere of K. E. 1. where the words are, Si quis Mastiuus inuentus fuerit super aliquam feram, & mutulatus fuerit, ipse, cuius canis erat, quietus erit de illo facto: si non fuerit mutulatus, ipse, Cuius fuerit Mastiuus, erit Culpabilis tanquā de manu pasto &c. If any Mastiue, that is Expedited, shalbe found vpon any Deere, then he, whose Mastiue the same is, shalbe quite of that deede, but if he be not Expedited, thē the owner of such a Mastiue shalbe guiltie, as if he had done that deed with his own hand. By this it appeareth that this word Canis is ment and intended onely pro Mastino, so that, although the letter of the law be generall, Viz. that dogges shalbe Expedited, yet in the construction of the law, it is ment onely for the Mastiue dogge, and no other sort of dogs, and so no other dogges are to be Expedited, but the Mastiues, and such like cures, that are of the Mastiue kinde. Budæus calleth a Mastiue Molossus, in the olde British speech they doe call him a *Masethefe*, and by that name they doe call all manner of Barking cures, that doe vse to Barke about mens houses in the night, because that they doe Dale and feare awaie theefes from the houses of their masters. But for the avoiding of all manner of scrupelles and doubts, that might arise or grow of construction of this word Canis, in the old auncient Assises of the Forrest, that were made before the Charter of the Forrest, and also in the later Assises, that were made since the Charter, they doe vse this barbarous word Mastiuus for a Mastiue, for the plainer vnderstanding of euerie man, and this word Canis alone without any other word ioyned with it, may seeme moze properly to bee taken for a Mastiue, then any other kind of dogge, for, as Aristotle saith, a dogge is called Canis of his Shyill Barking, and there is no dogge that doth Barke so Shyill, as the Mastiue doth, nor so much. Budæus calleth a Greyhound,

Budæus.

hound, Canis venaticus, and also in an other place, Canis venatorius, and in an other place Canis Leporarius: and a Spaniell Canis sagax, and in an other place Canis odorifsequus: so that, although that this word Canis may bee taken for any kind of dogge, yet when the word is used alone without any other addition, it is rather to bee taken for a Mastiue, then any other dogge, because of his barking.

7 By whome such dogges shalbe Expeditated.

**B**Ut now, hauing declared what dogges are to be Expeditated, there is yet an other question, who shall Expeditate those dogges, or by whome they are to be Expeditated, for it doth appeare by the Charter of the Forrest in the first Article, that the inquirie or view of the Expeditating of dogges within the Forrest, shalbe made euerie third yeare, when the Regard shalbe made: But he doth not say there, by whome that inquirie or view shalbe made, neither by whome these Mastiues shalbe Expeditated. The view and inquirie of the Expeditating of Mastiues is to be done by the whole Regard and the Forresters, that doe go with the Regarders in the making of their Regard, or by the Regarders themselves, for, it doth appeare in the thirteene Article of the charge of the Regard, that was made and used in Henry the seconds time, vnto which the Charter of the Forrest in this point hath relation, that the Regarders of the Forrest shall view all the Mastiues within the Forrest, if that they bee Expeditated and lawed, according to the lawes, Customes, and Assises, of the Forrest, or not. But they are not to law nor Expeditate such Mastiues, but onely to view them, whether that they bee Expeditated or not, and to inquire who doth keepe such dogges, within the Forrest, vnerpeditated, and to present at the next Swanmote, after they shall haue made their Regard, what Mastiues are kept within the Forrest vnerpeditated, and

Carra de for-  
resta art. 6.

In Capitulo  
de Regardo  
fiendo art. 13.



Carta de fo-  
resta art. 6.

and who is proper owner of euerie one of those Pastures. But all this while, there is no particular Law, that doth expresse or set downe, who shall expeditate Pastures: wherefore seeing that it is manifest, that Pastures are not to be kept within Forrests, except that they be expeditated, therefore if Pastures be kept, they must of force be Lawed and expeditated, and seeing that there is no certaine persons appointed to expeditate them, and yet they may not be expeditated neither, but it must bee done according to the Charter and Lawes of the Forrest, which saith, Et tunc fiat per visum & testimonium legalium hominum & non aliter, therefore such course must be taken in the execution thereof, as is taken at the common Law, or in other like Cases by the Forrest Lawes, and that is to proceede by a iudiciall sentence from the Court, for, after that the whole Regard haue made such viewe and inquirie of the Pastures within the Forrest, and haue deliuered vnto the Verderers their presentment of all Pastures, that are kept within the Forrest, and whose they are, then the Court of Swany mote, or, Court of Attachments, may cause all those Pastures to be brought before them to the fortie day Court, and there the Court may appoint a meete and a conuenient man with such Instruments, as are meete for that purpose, to be there readie and to do execution, that is to say, to expeditate them according to the Law, and being done in this order, it is done Per visum & testimonium legalium hominum, for, in this Case the Law of the Forrest is like vnto the common Law, for, at the common Law, if a Law be made, for the punishment of any offence, although that it bee not in that Law set downe and declared, who shal do the execution thereof, yet the Law of it selfe doth alwaies appoint the execution thereof vnto the discretion of the Court, before whome such offenders shalbe lawfully convicted of the offence, as for example, king Edward the Confessor made  
this

this Law, Volo, vt omnis homo abstineat a venarijs meis, In libro Sancti Edwardi Confessoris in Scaccario. vbicunq; pacem eos habere volo, super penam vitæ. I will that euerie man shall refraine from Hunting in my Forrestes, or, of my wilde beastes, wheresoeuer I will haue a peace for them, vppon paine of losse of life. Here, by this Law it is not declared, nor set downe, who shall be the Executioner to put the offenders to death for the same, but that is left vnto the discretion of the Iustices of the Forrest, before whome such offenders shalbe tried, for the Law doth intend, that such offenders are not to bee punished before a lawfull tryall against them in that behalfe be had, and then they, before whome such offenders are so tried, they are to appoint who shall doe the Execution, for, they are to pronounce the Iudgement, and then they are to appoint who shall doe the Execution of their Iudgement, and when the same shalbe done, and so in this Case of the Expeditating of Pastures, the Law hath appointed, that Pastures shalbe Expeditated, if any be kept within the Forrest, & although that it be not set downe in that Law, who shall Expeditate them, yet the Law doth appoint that as certaine as if it had beene there declared, and set downe, for it is ordained and appointed by the Charter of the Forrest, that the Expeditating of Pastures shalbe done by the view and testimonie of good and lawfull men, and not otherwise, and the inquirie and view of the Expeditating of dogges, being appointed particularly to be made by the Regarders of the Forrest, then, after that they haue made such view and inquirie, what Pastures there are remaining within the Forrest vnder Expeditated, and who is the proper owner of euerie one of them, and of what place he is dwelling, and then they being twelve lawfull Officers of the Forrest, swozne and appointed for that purpose, when that they haue made and deliuered by their verdit vnto the Court of Swanimote, then the same Court of Swanimote may cause the Forresters, within

Carrade forresta Artic. 6.



in whose Baylitwicke the owners of such Mastiues are remaining or dwelling, to bring all those Mastiues before the same Court, and there the Court shall appoint one to Expeditate them according to the Assises of the Forrest in that behalfe provided, or els, to cause all the foresaid Mastiues, and the owners of euerie one of them, to bee brought to the next Court of Attachment, before the Clerderers, that shall be holden after such Court of Swaninge, and Inquisition of the Regarders, as aforesaid, & then there the Court shall appoint an executioner in that behalfe, to expeditate al those Mastiues, that are so returned in the Regarders Inquisition to bee vnerpeditated, and so to conclude, the Mastiues are to be Expeditated by such an Officer as the Court shall appoint for that purpose, for, the Clerderers being the Judges of these two Courts, they are to giue iudgement, and also to award execution, and to see that execution be done, and they are to cause iii. s. to bee leuied of the goods and cattels of the owners of such Mastiues, as were returned in the Regarders inquisition to haue beene kept within the Forrest vnerpeditated, which iii. s. is to be payde vnto the Clerderers of the same Forrest to the vse of the King, and they are to enter all this matter in the Roolles of the Forrest, & to make an accompt of the money so receiued, before the Lord chiefe Justice in Eyre at the next Justice seate.

8 In what manner such dogs shalbe Expeditated.

Cartade fo-  
resta Artic. 6.

The manner of Expeditating of such Mastiues, is especially set downe and declared in the Charter of the Forrest in the first Article, in these words, Talis autem Expeditio fiat per Assisam communiter vsitatam Viz. quod tres ortelli abscindantur sine pelloa de pede anteriori, and such Expeditating of Mastiues shalbe done according to the Assises commonly vled (and then doth there further manifest  
and

and appoint out the same with a Viz.) that is to say, three Clawes of the forefoote shalbe cut off by the skin, and accordingly, the same is now vsed, for, the Mastiue being brought to set one of his forefeete vpon a peece of woode of eight inches thicke, and a foote square, then one with a Mallet, setting a Chissell of two inches broade vpon the three Clawes of his forefoote, at one blow doth smite them cleane off, and this is the manner of Expeditating of Mastiues.

9 In what places dogges are to be Expeditated.

**N**OW next it is requisite to declare, in what places and Forrests, Mastiues shalbe Expeditated, and whether Mastiues are to be Expeditated in all Forrests and Chases, or not, or whether but in certaine places, and what places those are, wherein Mastiues must by the Law be Expeditated. And for that in the Assises of king Henry the second called the Assises of Woodstock, the words are these. Item rex præcipit quod Expeditatio Mastiuorum fiat, vbicunq; fera suæ pacem habent vel habere consueuerunt, which is, that the king commandeth, that Mastiues shalbe Expeditated euery where, whersoever his wild beasts haue a firme peace, or haue vsed to haue any peace. By this Law, it may seeme by the words, that Mastiues are to be Expeditated in Chases, as well as in Forrests, because that in Chases the wilde beasts haue a peace, as well as in the Forrests: But yet the law in that point was neuer so taken, nor vnderstood, to extend, to Expeditate Mastiues in Chases, but onely in Forrests, and that for three causes, first, for that it appeareth in the beginning of the same Assises of Woodstocke, that they are *Tantum assisa Forestæ non Chasæ*, they are the Assises and Lawes of Forrestes onely, not of Chases, and therefore the execution of the Lawe hath neuer beene vsed but onely in Forrestes and not in Chases, for I neuer found nor reade of any president, that Mastiues were Expeditated in

*Assisa de  
Woodstocke,  
Artic. 6.*



Carta de fo-  
resta Artic. 6.

Carta de fo-  
resta Artic. 6.

Carta de fo-  
resta Artic. 6.

in Chases but in Forrests. Secodly, for that within a Chase there are no Regarders but in Forrestes, and Pastures are not to be Expeditated, but onely where the Regard is to be made, and that is in Forrestes and not in Chases, for the inquire and view of the Expeditating of Pastures is to bee made, when the Regard is made euerie third yeare, which is made onely in Forrestes and not in Chases. Thirdly, because the words of Carta de Foresta are, *Inquilitio vel visus de Expeditione Canum existentium in Foresta &c.* The inquire or view of Expeditating of dogges within Forrests &c. and so the Charter hath relation to the Expeditating of dogges but onely within Forrestes, and not in Chases, for the Lawes of the Forrests do not extend to Chases, and therefore it is most certaine, that the Forrest Law doth not compell Pastures to bee lawed or Expeditated in Chases, but onely in Forrests. But in all Forrestes, Pastures are to be Expeditated, and there is no Forrest exempted, except those that are freed by the Kings graunt onely. There are some men, that doe fondly thinke and affirme, that Pastures are not to be Expeditated in all Forrestes, but in certaine Forrests, that is to say, in those Forrestes that Pastures were vsed to bee Expeditated in, in the time of king Henry the second, because that the words in Carta de Foresta are, *Nec expeditentur Canes de Cetero nisi in locis vbi Consueuerunt expeditari tempore primæ Coronationis prædicti Regis Henrici aui nostri*, neither shal Pastures be Expeditated from henceforth, but only in such places where Pastures were vsed to bee Expeditated at the time of the first Coronation of king Henry the second, and heereupon many doe ground an opinion, that, vnlesse there be manifest prooffe made, that Pastures were Expeditated in that place at the time of the first Coronation of king Henry the second, they haue great wrong to haue their Pastures Expeditated there, for they say, that all such places and Forrests are

are freed by those woordes aforesaid of the Charter, whereas the meaning of those woordes is not to exempt or free any Forrest, that doth remaine a Forrest still, from the expeditating of Mastifes, but onely to exempt those places, that were once Forrests, and now, by the first, and third articles of this Charter, are to be disafforrested again, for in the first article of the Assises of king Henry the second, there the woordes are, quod expeditatio mastiuorum fiat vbicunque fere sue pacem habent, vel habere consueverunt, that Mastifes shall be expeditated euery where, where-soeuer the wild beastes haue any peace, or haue vsed to haue any peace. By this Law, notwithstanding that by the first and third articles of the Charter, all the new afforrestations, that were made by king Henry the second, king Richard the first, or, king Iohn, were appointed to be disafforrested again: yet, forasmuch as in those places so disafforrested, the wild beastes haue vsed to haue a firme peace as in Forrests, Mastiues were there to be expeditated still: and therefore in that article of the Charter, setting downe the order of expeditating of dogges, this clause of exception was put into that article of the Charter, videlicet, nec expeditentur Canes de cetero nisi in locis vbi consueuerunt expeditari tempore primæ coronationis prædicti Regis Henrici aui nostri, as if he should haue said, but yet, for all that Mastifes shall not be expeditated in any of those places, that were once Forrest, or, that are yet Forrest, and must now by this Charter be disafforrested: But Mastiues shall be expeditated in all Forrests, that were Forrests at the time of the first Coronation of king Henry the second, that is to say, in all the auncient Forrestes, that shall remaine Forrests still, for by the Charter, all new Forrests were generally to be disafforrested, and no expeditating of Mastiues to be vsed in any part of them: But all old Forrestes, that were Forrestes at the time of the first

Assisa forestæ  
de Wood-  
stock articu-  
lo 6.



Carta de Foresta artic. 2.

Coronation of king Henry the second, were to remaine Forrestes still, and in them Mastiues were, and yet are to be expeditated: so that briezly, the intent and meaning of those woordes, nec expeditentur Canes &c. is, that Mastiues shall not be expeditated in any place, but where Forrestes are remaining still, and where Forrestes shall be remaining: for, as the second article of Carta de Foresta is a clause put into the Charter, to exempt all those, that were put out of the Forrest by the disafforestation, from the bondage of coming befoze the Iustices of the Forrest by the common summons, as they were wont to do: so likewise, this clause, nec expeditentur Canes &c. is a clause put into the Charter, onely to exempt and free those places, that be disafforrested, from the bondage of lawing and expeditating of their mastiues, as they were wont to do befoze the making of the Charter, and the disafforestation of the new afforestations aforesaid: And therefore, at this day, in all places in England, where Forrestes are, there is no doubt, but that there must be expeditating of Mastiues, except that they haue some especiall Charter or graunt from the king to the contrarie.

10 The forfeiture by dogges vnexpeditated within a Forrest.

Carta de Foresta artic. 6.

**T**he forfeiture, that doth grow vnto the king, onely for the keeping of Mastiues within a Forrest vnexpeditated, is set downe and declared to be certain, by the sixth article of Charta de Foresta, in these woordes, Et ille, cuius Canis inuentus fuerit tunc non expeditatus, det pro misericordia tres solidos. And he, whose Mastiue shall be found vnexpeditated, or not expeditated within the Forrest, shall pay vnto the king for his fine iii. s. But if such a Mastiue, that is so kept within any Forrest vnexpeditated,

do hurt or kill a wild beast of the Forrest, then the owner of such a Mastiue is to be punished for that according to the qualitie of the same offence, ouer and besides the iii. s. for the keeping of such a Mastiue vnerpeditated.

11 Who shall be chargeable by the same forfeiture, and in what manner.

**V**Who shall pay the said fine or forfeiture for the keeping of such a Mastiue vnerpeditated to the king, is likewise set downe & declared, in these words, Et ille, cuius Canis inuentus fuerit &c. and he, whose Mastiue shall be found vnerpeditated, that is to say, he, that shall be by Inquisition found to be the owner of a such Mastiue, that is so kept vnerpeditated, det pro misericordia tres solidos, Carta de Foresta aruic. 6. he shall pay vnto the king iii. shillings for the keeping of the same Mastiue. But it seemeth plain by those words, Et ille, cuius Canis inuentus fuerit, that, before that the said fine of iii. shillings can be leuied, there must first be an Inquisition taken by the Regarders of the Forrest, so that the same may be found by them, and vpon their oathes presented, and certified of record before the Clerderers, and then vpon such matter of record, the Court may award proces to leuie the same fine of iii. shillings, and not before, for, the Court can not cause the same three shillings to be leuied or gathered of any man, before that it be found by Inquisition, and certified into the Court of record,

First, What dogge the same is.

2 Who is the owner thereof.

3 Who doth keepe such a dogge.

4 Where, and in what place, he is kept, that it may appeare whether he be kept within the Forrest, or out of the Forrest.



It appeareth by these wordes, Et ille, cuius Canis inuentus fuerit tunc non expeditatus, det pro misericordia tres solidos, that it must be found by the inquisition and view of the Regarders of the Forrest, what manner of dogge it is, that is so kept vnerpeditated, for, if it be not a Mastiue, the owner thereof is not chargeable to pay the said three shillings, neither is the same dogge to be expeditated by the Assises of the Forrest. And likewise it must be found, who is the proper owner of the same dogge, for he onely is chargeable to pay the said iii. shillings. And as Master Hesketh saith, the same iii. s. shall be leuied and gathered of the owners of such Mastiue, vpon the certificate of their Inquiry and view of record. And saith also, that if in case the Regarders of the Forrest by their view and presentment, do find and present one Mastiue kept within the Forrest, which is not hambled nor expeditated according to the Lawes of the Forrest, and they say also, quod ignorant cuius Canis ille est, this is a void presentment, because that the owner of such a Mastiue is not herein found and presented. But yet neuertheless, such a dogge shall be taken away by the Officers of the Forrest, and carried clean out of the Forrest: But if such a dogge haue done hurt vnto the wild beastes of the Forrest, then he that hath kept such a dogge, is answerable for the same: And if any person do claime the same dogge by action of Trespas, or Repleuin, or otherwise by matter of record, and the same tried, and thereby prooued to be his dogge, that doth so claime him, then vpon that triall, and the first presentment, the same owner shall be forced to pay vnto the king iii. s. for the keeping of the same dogge vnerpeditated within the Forrest. And if the Regarders do find & present one dogge vt supra, which is the dogge of one Iohn at Stile, that is a good presentment, & the said Iohn at Stile cannot disclaime, nor say that the same is not his dogge generally.

And

Master Hesketh fo. 27.

Hic incipit le  
Lecture de  
mon Master  
Hesketh de la  
Forrest ley.

And that is, as Master Hesket, and Master Treherne affirme, by reason of the letter of the Charter, quod ille, cuius Canis tunc inuentus fuerit, so that if it be found by matter of recoꝝd foꝝ the king, then Iohn at Style is to pay the amerciament of iii. s, foꝝ he cannot counterplead that point generally, against the presentment and retoꝝne of the officers of the Forrest that are swoꝝne.

And if a man be indicted, foꝝ that he did keepe one dogge of one Iohn at Styles within the Forrest not expeditated, contrarie to the Lawes of the Forrest, if befoꝝe the Iustices of the Forrest, he do plead, that the dogge is not his: that is no plea, without saying to whom the propertie of the dogge is, as to Iohn at Style &c. And if the Iurie do find, that the propertie of the dogge is not to the said Iohn at Style, noꝝ yet vnto Iohn at Downe, that is no sufficient verdict, wythout finding to what other person the propertie of the dogge was: foꝝ, in that case it is like vnto a man, that is indicted by the Coroner super visum corporis, and he doth plead not guilty, and the Iurie do find him not guilty, yet that is no sufficient verdict, without presenting one other person that did the same murder, which presentment shall be in the nature of an Indictment against him: so that if he plead not guilty, that is no plea: noꝝ yet to find him not guilty, is not any sufficient verdict against such a presentment vt supra. If the Regarders do find and present such a dogge kept at the house, oꝝ in the house of Iohn at Downe within the Forrest, yet foꝝ that Iohn at Downe shall not be amerced by reason of such a presentment: But if the Regarders do find and present, that Iohn at Style did keepe such a dogge within the Forrest, that is a good presentment to charge Iohn at Style with the amerciament oꝝ fine of iii. shillinges: But if the Regarders do find and present, that Iohn at Style did deliuer one dogge to Iohn at Downe to keepe within



the Forrest, and that he did keepe that dogge there vnerpeditated, in that case, the deliuerer or bailer of that dogge shall be charged vpon that presentment to pay the said fine of iii. s., and not the bailee, or he to whom the dogge was deliuered.

But if the Regarders do find and present, that Iohn at Style did deliuer the said dogge for a certein time to keepe to Iohn at Downe, which Iohn at Downe did keepe the same dogge within the Forrest vnerpeditated, there the bailer and the bailee shall both be amerced: But if it be found, that the dogge that was so deliuered to be kept, was a pledge, or a mortgage for money, vt supra, there he, to whom the dogge was deliuered, onely shall be charged of the amerciament of iii. s., and not the bailer.

And if it be found and presented, that Iohn at Style as a trespasser vi & armis, did take the dogge of one Iohn at Downe, and did keepe him wpythin the Forrest vnerpeditated, Iohn at Downe the owner shall be charged of the amerciament, and not Iohn at Style the trespasser.

So it is, if it be presented that Iohn at Style, vi & armis did take the dogge of one Iohn at Downe, from him, and vpon that taking Iohn at Downe brought a Repleuin, and that Iohn at Style did keepe the same dogge within the Forrest vnerpeditated, in this case, Iohn at Downe, the verie owner of the dogge, onely shall be charged of the amerciament, and not Iohn at Style that kept the dogge.

And if it be presented and found, that one Iohn at Style hath kept two Pastures within the Forrest vnerpeditated, in this case, Iohn at Style shall not be amerced for euery dogge iii. s., but onely iii. s. for all that offence. But if two men haue iointly, or, in common, one dogge within the Forrest vnerpeditated, there euery one of them shall be amerced

amerced iii. s. severally : But otherwise it is, if it be found and presented, that the husband and wife haue kept one dogge within the Forrest vnerpeditated, for they both are but one person in Law : And in that case, if the husband die, the wife is executrix to him to whom the dogge was belonging, and therfore in this case the husband onely shall be amerced the iii. shillings.

And if it be found by the Regarders of the Forrest in their Inquisition, that a Duke, an Earle, a Baron, or any other person of the Realme, Spirituall or Temporall, do keepe such a dogge within the Forrest vnerpeditated, he shall pay but onely the amerciamment of iii. shillings, according to the letter of the Charter of the liberties of the Forrest, and not any amerciamment according to his dignitie and degree, as they do at the Common Law : But if such a person of dignity or honoz, be presented and indicted for the keeping of Greyhounds, and hunting with them in the Forrest, before the Iustices of the Forrest, there he shall be out of the remedie and priuiledge of that letter, and then he shall be amerced for the same by the Iustices of the Forrest at their discretion, according to his dignitie and estate. And Walter Hesketh noteth vpon this woord Der, that the said amerciamment of thre shillings, shall bee leuied by distresse presently, before the comaning of the Iustices of the Forrest : And in deede it hath alwayes been so vsed, as it doth appeare by Rolles and presentments of the Regarders in dyuers Forrestes : for, in thys case, saith he, the same is like an amerciamment of a Leete.

And this article, for the view & inquisition of expeditating of doggs, doth differ from any other article of the Regard, for, concerning this article, the Regarders may set downe the fine certain them selues, & vpon their presentment certified & retoyned of record before the Clerderers, the fine may



be leuied presently, and he, that is presented and found to haue kept a dogge within the Forrest vnerpeditated, shall pay iii. shillings for the same: And yet neuerthelesse, if he will keepe his dogge still, he must haue him expeditated, or els put him away out of the Forrest. Et cest est loppinion de mon Master Heskert en son Lecture de la ley del Forrest: Mes sil soit bon ley en chescun point ou nemy.  
*Quare.*

12 Whereof it is named Expeditating, or Hambling.

*Assisa & consuetudines forestarum artic. 9.*

*Canutus Canon 31.*

*Assisa forestarum de Woodstock articulo 6.*

*Master Sergeant Fleetwood.*

**T**his verbe Expeditor, to make lame, or to make one halt, or vnable to run, is a made Latin woord, vbled in stead of Mutulo, to make one lame: And in the Assises and Customes of the Forrest, that were made in the time of Edward the first, there this woord Mutulatus is vbled for Expeditatus, as a woord of better Latin, and meet to be vbled for that purpose. Canutus in his 31. Canon both call the lawing of dogges Genuiscissio, but that was a kind of cutting or laming of dogges in the hammes, and that sort of lawing of dogges the old Forresters were wont to call Hamling, or, Hoxing, and of some Hocksynewing. King Henry the second was the first that began to cut off the clawes of the forefeete of mastiues: And therefore he called that manner of torment of lawing of dogges, Expeditatio mastiuorum, the expeditating of mastiues, taking that name Expeditating, of making them lame and vnable to run, Ex pede, of the hurt or mayme that they haue of the foote, by the cutting off of the three clawes of the forefoote. Master Sergeant Fleetwood saith, that this manner of lawing of dogges, is called Expeditatio, quasi diceret Ex pede Statio, that is to say, a let or stay to run by the hurt of the foote.

Chap.

## Chap. xvij.

- 1 *Of Nufance of the Forrest, and what shall be said to be a Nufance of the Forrest.*
- 2 *How many sorts of Nufance of the Forrest there are.*
- 3 *Who shall inquire of Nufances of the Forrest.*
- 4 *How, and in what manner, the Nufances of the Forrest are to be remedied.*
- 5 *How, and in what manner, they, that do make Nufances of the Forrest, shall be punished for the same.*
- 6 *Whereof the same taketh the name of Nufance.*
- 7 *Of the difference betweene Nufance at the Common Law, and Nufance by the Forrest Law.*

1 Of Nufance of the Forrest, and what shall be said to be a Nufance of the Forrest.



Then as, at the first ordayning and appointing of Forrests, there were certeyne particuler and proper Lawes, made and instituted for the continuance of Forrests, and for the preservation of Ciert and Cienison, without which a Forrest cannot remaine and be a Forrest: So likewise, whatsoeuer thing there is, or may be, that tendeth to the hurt or distruction of the Forrest in any degree, or to the hurt or distruction of the Ciert or the Cienison of the same, or to the breach of those Lawes, so made for the preservation of them, the same is, and may be called a Nufance of the Forrest: For this word Nufance, by a generall name doth in effect comprehend in it euery offence in the Forrest, that is, or may be done against the Lawes of the Forrest.

2 How



## 2 How many sorts of Nufance of the Forrest there are.

**O**F Nufances of the Forrest, there are three sorts of them: The first is called Nocumentum commune, or, common Nufance, and this sort of Nufance or annoyance is that, which is a general hurt and annoyance, aswel vnto all the Inhabitants and dwellers within the Forrest, as also vnto the wild beastes of the same: As for example, if any man, that ought to make or repayre any brydge or brydges for common passage, ouer any ryuer being in any high way, leading thorough the Forrest, do suffer the same to decay, so that by reason thereof men can not haue their passage in the common high way, as they were wont to haue, but are dyuen to wander thorow the Forrest out of the common high way to their owne trouble, and the disquiet of the wild beastes of the Forrest also, this is a common Nufance, and this is to be presented at the Iustice seat, before the Iustice in Cire of the Forrest, Itinere Lancaster fol. 7.

And in like manner it is, of all common high wayes, thorough the Forrest, if they be suffered to decay, so that men can not haue their common passage thorough the Forrest by reason thereof, as they were wont to haue, this is to be inquired of, and to be presented before the Lord chief Iustice in Cire of the Forrest, Itinere Lancaster fo. 7.

And in like manner it is of such, as are forrenners and do dwell without the bounds and limits of the Forrest, hauing no freehold or title of common within the Forrest, and yet do ouerlay the common within the Forrest with their cattell, to the annoyance of the wild beastes, and also to the annoyance of such as ought to haue common within the Forrest, this is a common Nufance, for that the same doth aswell annoy the Inhabitants of the Forrest, as also

as also the wild beastes of the same.  
In this number are also all those, that do new erect any water Mill within the Forrest vpon any ruer, or do otherwise make any damme, or do stop any water course, whereby the water doth ouerflow and drowne any meadow or pasture ground, to annoy the wild beastes of the Forrest of their feeding, or to drowne any commonhigh way of passage thorough the Forrest, this is a common Nuisance, and all these are punishable by the Justice in Cire of the Forrest at his Justice seat. Itinere Lancaster fol. 7.

The second sort of Nuisance is called Nocumentum speciale, or, speciall Nuisance, because this sort of Nuisance tendeth specially ad Nocumentum ferarum, to the hurt of the wild beastes of the Forrest, in this second diuision is comprehended all maner of hunters and trespassers in the Forrest, that do any manner of way trespassse, or offend against the venison or the wild beastes of the Forrest, as with hunting in the Forrest, eyther in the day or in the night, with bowes, gunnes, or, any other manner of engins, to take or distroy the wild beastes, or, with Greyhoundes, or, any other dogges, with an intent to take or distroy the wild beastes of the Forrest, this is an especiall Nuisance, for that the verie offence it selfe tendeth directly to the hurt and destruction of the Venison of the Forrest, which is the most especiall thing in a Forrest, and the onely thing, for the whych a Forrest is made a Forrest: And for thys cause, the same may verie well be called Nocumentum speciale.

The third sort of Nuisance or annoyance, may well be called Nocumentum generale, because it stretcheth to the generall hurt and annoyance of the whole Forrest, and therefore by an accidentall meanes to the wild beastes of the



the Forrest. Within this diuision is comprehended all manner of trespasses, that do tend any way to the wast, hurt, or destruction of the Vert of the Forrest: for, the destroying of the Vert of the Forrest doth cause the exile and banishment of the wild beastes from the same: and therefore, by a secundarie meanes, it is a hurt to the wild beastes of the Forrest, and so, that which tendeth to the hurt and annoyance of the Vert and the Venison, tendeth to the generall hurt and destruction of the Forrest. And in this diuision are also comprehended all Surchargers of the commons, and Agistors of their owne pastures and landes, which by eating vp of their pastures and commons so bare, that the Deare can haue no feede there left for them, they do likewise cause the exile and banishment of the wild beastes from the Forrest. In this diuision are also comprehended all Assarts and Purprestures, and all manner of trespasses, that do tend to the hurt or destruction of any herbage of pasture within the Forrest, or els, to any unlawfull manner of disquieting of the wild beastes of the Forrest by any such like secundarie meanes.

### 3 Who shall inquire of Nusances of the Forrest.

**A**ND of all those Nusances, generally, the Regarders of the Forrest, in their Regard are to haue the view, and also to inquire the certaintie of them in euery point, and thereupon to make their presentment and certificate vnto the Verderers, at the next Swannimote to be holden for the same Forrest, to the end that all those offences and offenders, may there receiue a lawfull triall, according to the Statute or ordinance of the Forrest, called *Ordinatio foresta*, made and set forth in anno 34. Edwardi primi. And that then, after that all such offences haue

haue receyued a triall, as aforesaid, they are to be sealed vp, and so to be kept by the Verderers of the same Forrest, vntill the comming of the Lord chiefe Justice in Eyre of the Forrest, to the end that when they do come befoze him, such offences shall not there be trauersed.

4 How, and in what manner the Nusances of the Forrest are to be remedied.

**A**ND when the said Lord chiefe Justice in Eyre of the Forrest shall come to sit in his iudiciall Seat for the same Forrest, then all those Nusances aforesaid shall be remedied in this order. First, if it be in common Nusance, as in not repayying of bridges, or common high waies, or such like, the offenders beeing conuicted and bound to appeare befoze the Lord chiefe Justice in Eyre, he shall cause the defaulter to be bound with good and sufficient Suerties, to see the same well and sufficiently repaired, as it ought to be, by a certaine day, or otherwise to forsaite his bond, and also to fine him for his default in not doing of the same: But if such an offender being conuicted of his default, as in that he ought to repayze the same, and hath not done it: then, if such an offender or defaulter be not bound to appeare at the Justice seat, nor will not appeare there, then after Iudgement there giuen, that he ought to repaire and amend the same, hee shall be distrained, vntill hee do amend it, and also do fulfill the same Iudgement, or els his landes and tenements shall be seised into the kinges handes, vntill that he haue amended and repayzed the same, as he ought by the Law to do.

And if any Forrener be conuicted of commoning with any beastes within the Forrest, (besides that, his beastes being taken for the thirde offence, shall be forsaited) he  
him



him selfe shall also make his fine wyth the king for that offence. And all such as haue newe erected any water Mill, or made any damme to drowne any meadow, or pasture ground wythin the Forrest, or to hinder or stop any common passage or high way, all such offenders shall be adiudged to make their fine wyth the king for the same, at the discretion of the Lord chiefe Justice in Eyre: And also to be bound in a great summe of money, wyth sufficient Suerties, to amend all such defaults, before a certaine day vnto them then and there to bee limited and appointed.

And all such as are or shall be conuicted of hunting or trespassing wythin the Forrest, to the hurt of the Venison or wild beastes, which offence is called Nocumentum speciale, they are to be imprisoned, ransomed, and bound to the good abearing of the Forrest: And all such as are conuicted of distroying of Vert, or of felling or cutting downe of bert, woodes, or couert, within the Regard of the Forrest, they are first to be imprisoned, and then to make their fine wyth the king for that offence, and to be bound to the good abearing of the Forrest.

And for those that do agist wythin the Forrest: And also for those, that are surchargers of the Forrest, See before in the Chapter of Agistment, and in the Chapter of Common, Commoners, and Surchargers. And for Allarts, See in the Chapter of Allarts before: And likewise in the Chapter of Purprestures and Wastes, and these are the meanes that the Lawes of the Forrest haue appointed to remedie these Inconueniencies.

- 5 How, and in what manner, they, that do make Nufances of the Forrest, shall be punished for the same.

**H**ow, and in what manner all those, that do make or cause any of the foresaid Nufances of the Forrest to be made or done, shall be punished, it hath for the most part been declared here before in the 4. diuision of this Chapter. And this note further for a generall rule, that in euery trespassse and offence of the Forrest in vert and venison, the punishment, for the offender thereof, is to be imprisoned, ransomed, and bound to the good abearing of the Forrest: But this punishment can not be erecuted in euery point, but onely by a Iudiciall sentence pronounced by the Lord chiefe Iustice in Cite of the Forrest at his Iustice Seat, in which case the partie is alwayes first conuicted of the offence by a lawfull triall, according to the Lawes of the Forrest.

Carta de Foresta artic. 15

And all such, as are conuicted of any manner of common Nufance of the Forrest, they are to bee imprisoned, fined, and bound to amende the same by a certaine day: But I find no president in all the Assises of Pickring and Lancaster, that euer any such was bound to the good abearing of the Forrest: but onely bound to amende the same common nufance, whereof they are conuicted: For Wastes and Martes of the Forrest, they are comprehended in the Trespasses of vert: and therefore they that are offenders therein, they are to be imprisoned, ransomed, and bound to the good abearing of the Forrest.

And all such, as are conuicted of any maner of offence in purpresture within the Forrest, they are to be imprisoned, fined, and bound to pull downe and destroy the same



same purpresture by a certein day, or els to yeeld and pay vnto the king perely a rent, for the same to stand. But I do not find, that, for making of purpresture, any man hath been bound to the good abearing of the Forrest.

For Nuisances of the Forrest, see more hereafter in the abidgement of the Assises and Iters of Pickring & Lancaster, in the title of Trespasses of the Forrest there.

6 Whereof it taketh the name of Nuisance.

**A**ND it is to be noted, that this woord Nuisance, is deriued of the French woord nuisance, which doth signifie to annoy, or to hurt, which we call in Latin Nocumentum, comprehending within it, by a generall name, all maner of trespasses and offences in the Forrest, that do any way tend to the hurt, harme, or damage of the Forrest. And it is here vled in this place in the same sence that this woord Trespasse is, and taken for trespassse, because the woord it selfe hath a larger scope in some signification, then this woord Trespasse hath.

7 Of the difference between Nuisance at the common Law, and Nuisance by the Forrest Law.

**T**He difference betweene Nuisance by the common Law, and Nuisance by the Forrest Law, is this: that Nuisance by the common Law is that, which tendeth to the generall hurt and annoyance of the kings liege people, or els, to the hurt and annoyance of some one particuler person: And Nuisance by the Forrest Law, is that, which tendeth to the hurt or annoyance of the Vert or Venison of the Forrest in what sort soeuer: so that, that thing, which may be accompted Nuisance by the common Law, is not to be accompted Nuisance by the Forrest Law

Law, except that the same in some sort do tend to the hurt of the Forrest, but if that any thing, that is nuisance at the Common law, do tend to the hurt and annoyāce of the Forrest, being not tollerable by the Assises of the Forrest, then the same shall also be called a nuisance of the Forrest. Note the difference.

Chap. xviii.

- 1 Of Hauking and Hunting within the Forrest.
- 2 Who may Hauke and Hunt within the Forrest, and who may not.
- 3 Of licences to Hunt within the Forrest, and how men may use their licences in Hunting there.
- 4 Who may graunt a licence or warrant to Hunt within the Forrest, and who may not.
- 5 Of the difference betweene, a licence of pleasure, and a licence of profit.
- 6 Of him that hath a right or interest to haue yeerely a fee Decree within a Forrest, & what remedy or means he hath by the Lawe to come by the same.
- 7 If he, that hath a licence or authoritie to Hunt within the Forrest, do abuse the same in Hunting, then he shalbe a trespasser in all ab initio.
- 8 Of a licence in Law, and a licence in fait, and their difference.
- 9 Of such as are trespassers and malefactors in Hunting in Forrests, and how they are to be punished and used for the same.
- 10 Of the signification of these two wordes, Hauking and Hunting.



## 1 Of Hauking, and, Hunting within the Forrest.



Hauking and Hunting in Forrests are pastimes of delights and pleasure, ordained and appointed chiefly for the recreation of Kings and Princes, & therefore they are not to be used in Forrests by every common person, but onely by such, as are Earles, Barons, & Noble men of the Realme, being thereunto li-

censed or aucthorised by the king, or, by his Justice in Eyre, or other officers of the forest, or, by such, as haue some good and lawfull aucthoritie thereunto. And euen as the Forrest is a priuiledged place for the peace and safetie of the wild beasts, so likewise it is also a Sanctuarie and Priuiledged place for the peace and safetie of all manner of wild foules, but most especially for those, that are birds and foules of warren, and therefore every Forrest doth containe in it a Free warren.

## 2 Who may Hauke and Hunt within the Forrest, and who may not.

The king himselfe, and al those, that haue any sufficient warrant or aucthoritie from him to Hauke or Hunt within the Forrest, they onely may Hauke & Hunt there, & none other, & all such, as haue any lawfull claime, allowed in Eyre by reason of any grant from the king, to Hauke or Hunt within the Forrest, they may vse the same according to their graunt, so they do follow their aucthoritie in the same manner that it is graunted vnto them. It appeareth in the Assises & Customes of the Forrest made in An. 6. of E. 1.

E. i. that the Abbot of Peterborough had a Charter from the king, to hunt Hares & Foxes within certaine Forrests, and it doth appeare likewise in the Assises of the Forrests of Pickring and Lancaster, that diuers persons haue had graunts and Charters from the king, to hunt Hares and Foxes, and also to Hauke and to take foules and birdes of Warren within a certen place of the Forrest, by reason of which graunts and Charters, they did make their claines in Cite before the Iustices of the Forrest. Whereby it is to be noted, that, without such graunts or Charters, they might not Hauke nor Hunt within the Forrest: Wherefore, if any Knight, Esquier, or Gentlemā, dwelling within the Regard of the Forrest, & being Lord & owner of a Manor there, yet he may not Hauke nor Hunt within his owne Lordship or Manor being within the regard of the Forrest, except that he haue a lawfull clayme for the same, allowed him in Cite, by reason of some graunt or Charter from the king, for, this is plaine, that by the Assises and Lawes of the Forrest, no manner of person may Hauke or Hunt within any part of the Forrest, that is within the Regard of the Forrest, except that he haue a sufficient warrant so to do, and therefore all Knights, Esquiers, Gentlemen, and Freeholders, that do dwell in the Forrest, they must forbear to Hauke or Hunt within their owne grounds being within the regard of the Forrest, because it is a trespass & breach of the kings free & firme peace of the Forrest, for any mā whatsoeuer to Hauke or Hunt within the same, without good warrant from the king.

It appeareth by the 11. Article of the Charter of the Forrest, that it is there graunted by the same Charter, that if an Archbishop, Bishop, Earle, or, Baron of the realme, comming to the king by his commaundement, and passing through any Forrest of the kings, it shalbe lawfull for him to kill one or two of his Deere there, by the view

Assisa & consuetudines foreste art. 20.

Itin Pickring fol. 59.

Assisa foreste de Pickring fol. 39.

Certa de Foresta artic. 11.



of the Forrester, if he be present, or els to cause one to blowe a horne for him. By this it seemeth, that before this graunt made by the Charter, neyther Archbishop, Bishop, Earle, nor Baron, might Hunt in any of the kings Forrest without good warrant so to do, neyther may they yet at this day, but when they are sent for to the Court by the kings commaundement, and in their returning home againe, for, in that case, that Article of the Charter of the Forrest is a good licence and warrant for such persons, and in such sort to Hunt in the kings Forrest: where note, that by the forme of this licence or grant, there are foure things strictly to be obserued.

- 1 That he be sent for by the King.
- 2 That he be an Archbishop, Bishop, Earle, or, Baron.
- 3 That it be done by the view of the Forrester, or els,
- 4 That, if the Forrester be absent, he cause a horne to be blowne for him.

3 Of licences to Hunt within the Forrest, and how men may vse their licences, in Hunting there.

**I**t shalbe very necessarie here in this place to speake something, of licences and warrants to Hunt and Hauke in Forrests and in Chases, and how and in what manner men may vse their licences, aucthorities and warrants in Hunting in Forrests. And therefore it is to be vnderstood, that hee, that hath any manner of licence, warrant, or, aucthority to Hauke or Hunt in any Forrest, Chase, or Warren of the kings, he must haue great regard, that he do followe strictly the forme of his aucthoritie that is giuen him, be it by licence or warrant, or otherwise, for, if he do not, then he is to be punished for the same, as a trespasser Ab initio: For, if a man haue a licence to Hunt and kill

kill one Bucke in any Forrest, Parke, or Chase, he may not by that licence carie away the same Bucke so killed, neither may he kill any other Deere but onely a Bucke by that warrant or licence.

It was holden for Lawe in 18. E.4. in the Case of one Ashton, that where a man had a licence to Hunt and to kill three Buckes in his Parke, and those three Buckes to dispose for the honoꝝ of him, that was owner of the same Parke that gaue him that licence, That, in that case, the seruant of him, to whom that licence was giuen, might not hunt, nor kill those three Buckes by that licence, neither might he, to whome that licence was graunted, Hunt with anie moze companie then himselfe, and not with his seruants, neyther might he graunt ouer that licence to any other, because that the same licence was but a licence of pleasure and not a licence of profit, for the grauntee of that licence had not by that graunt any proprietie in the thing graunted.

M.18.E.4.  
fol.14. pla-  
cito 12.

And in Anno 13. of Henry the 7. in the Case of the Duches of Northfolke, it was holden for Lawe, that, where a licence was graunted, by the Duches of Northfolke to the Earle of Suffolke, to hunt in the Parke of the said Duches of Northfolke at Lopham at his pleasure, that by that licence the Earle might not hunt with anie of his seruants with him, nor with any moze companie then himselfe, because that such a licence was but a licence of pleasure, and therefore might not extend to any other, but onely to himselfe.

Hillar. 13.H.  
7.fol.13. pla-  
cito 2.

But it was there taken for good Lawe by the opinion of the whole Court, that, when the said Earle pleaded a licence, giuen vnto him by the foresaid Duches to hunt, kill and carie away the Deere, that he killed, that, in that Case, the Earle might now Justifie to hunt with his seruants, and other his friends with him, because that now

Ibidem.



this was a licence of profite, for that the grauntee by his licence hath proprietie in the thing graunted. Note the difference.

Hill. 13. H. 7.  
fo. 12. plac. 1.

It appeareth in Anno 13. H. 7. in the Case of the Earle of Suffolke, that, in an action of trespassse brought against Rafe Barney and Richard Whitley by the said Earle of Suffolke, for Hunting in the Parke of the said Earle, that Whitley, in barre of that Trespasse for Hunting in his Parke, pleaded that the said Earle at a certen day and place did deliuer a sufficient warrant sealed with his seale vnto one Robert Southwell, directed to one T. the keeper of the same Parke, where the Trespasse was supposed to be done, commaunding him to deliuer vnto the said Robert Southwell, one Bucke of that season: by vertue whereof, the said Robert Southwell, at the time of the Trespasse supposed, and the said Richard Whitley as his seruant with him, entred into the said Parke, and there the said Robert Southwell deliuered the said warrant vnto the said keeper of the Parke, and the said Robert Southwell and Richard Whitley required the said keeper to Hunt, which did so, and killed one Bucke, and the said Whitley caried the same away with him, as lawfull it was for him to do: And this was holden there for a good and a lawfull Justification, whereby it appeareth, that hee, that hath a Licence of profite, hee may Justifie for himselfe to Hunt, and also for others with him.

Trinitatis 12.  
H. 7. fol. 25.  
placito 5.

And likewise in Anno 12. H. 7. it is holden for Lawe, that, if a man haue a licence graunted him to enter into a Chase or a Parke, and there to Hunt at his pleasure, in that Case, if he do kill a Deere in his Hunting, he may not carie the Deere away with him, neyther may he grant ouer that licence to any other man to Hunt there for him, neyther may any other man Hunt there, for him, or, with him,

him, by that licence, because this licence is but a licence of pleasure, and not of profite, for, when he hath killed a Deere there by Hunting, he hath no proprietie in the same by that licence, as it appeareth there in the case of the Duches of Suffolke.

It seemeth by the Case of the Lord Beaumont in 22. H. 6. that if a man haue a licence for him and his seruants, to Hunt and Chase in a mans Chase, Parke, or Warren at his pleasure, that by those words, for him and his seruants, shalbe vnderstood a licence of profite, and that by the words for him and his seruants, the grauntee may Hunt, kill and carie away, for, these words, for him and his seruants, do implie, that the grauntee hath proprietie in the thing hunted, because that by such a licence the grauntee may iustifie for his seruant to Hunt, which is more then a licence of pleasure.

Pascha 22.  
H. 6. fol. 25.  
placito 23.

But here it is to be noted, that he, that hath any manner of licence to Hunt in any Forrest, Chase, Parke, or warren, must take heed, that he do not abuse his licence, or exceed his auctoritie in any point, for, if he do, then he shalbe accounted a Trespasser Ab initio, and shalbe punished for that fact, as if he had no licence at all: As for example, if he, that hath a licence to Hunt and kill one Bucke beyng in season, and he doth voluntarily Hunt and kill a Hinde out of season, in this case he shalbe accounted a Trespasser, for he hath abused his licence and auctoritie.

And so likewise in the said Case of 12. H. 7. if a mā haue a licence for him selfe onely to Hunt in a Chase at his pleasure, if he do commaund his men to Hunt there with him, and by that commaundement they do Hunt, there now he himselfe is a trespasser by that commandement, and also his mē, for that Hunting, for he hath abused his auctoritie. And whatsoeuer hath bin here declared of licences for hunting in

12. H. 7. fol.  
25. p. 5.



Chases, Parkes, or Warrens, the same is also to be understood of licences for Hunting and Hauking in Forrests.

- 4 Who may graunt a licence or warrant to hunt within the Forrest, and who may not.

**B**ut now, concerning the graunting of licences, who may graunt licences or warrants to Hunt or Hauke within Forrests, and who may not, is here necessarie to be examined, and most necessary to be knowen. And therefore it is first and principally to be noted, that the king himselfe onely, being the chiefe head and gouernour of this Commonwealth, vnto whom the rule and gouernment of all Forrests and such like places of Princely pleasures and delights do belong and appertayne, he may graunt and giue licence to Hauke and Hunt in his Forrests: and in like manner they, that haue some speciall authoritie deriued fro him for that purpose vnder the great Seale, may also giue licence in some sort, and in some places, to Hauke and Hunt in the Kings Forrests. The Lord chiefe Iustice in Eyre of the Forrest, may licence or giue warrant to a Gentleman, to Hauke and Hunt within the Forrest in his owne Lordship or manner, or in his owne Freehold, and this hath bene held for a good licence and warrant.

If in case that a subiect be Lord & owner of a Forrest, he may giue a licence to Hauke & Hunt in his owne Forrest. But in the Kings Forrests, no man may giue or graunt any licence or warrant, to any man, to Hauke and Hunt in them, but the King himselfe onely, or his Iustice in Eyre of the Forrests beyng within the Iurisdiction of the same Iustice, or they that by Charter or graunt from the King, haue some especiall aucthoritie for some speciall place. A Master Keeper, or, Forrester of any of the kings Forrests, cannot giue any licence or warrant to any Gentlemā

or to any other person, to Hauke or Hunt within the kings Forrest, whereof he is a keeper, for, if he doe, both the Forrester and keeper himselfe, and all those that doe so Hauke or Hunt there by his lycence or warrant, are all Trespassers, and punishable for the same, by the Lawes of the Forrest.

It appeareth in Anno 2. E. 4. that a man brought an action of Trespas against one for hunting in his Parke, and the defendant pleaded, that the plentife made one Iohn Astile the keeper of his Parke, wherein the Trespas was supposed to be done, and that, at the same day and time, that the Trespasse was supposed, the same keeper did lycence, and praeie this defendant to kil two Deere for him, by vertue wherof he did kil two Deere, Iudgment si actio: And this was clearely holden no Barre, because that the keeper had no such authoritie himselfe, for his authoritie was onely to keepe and p̄serue the Deere, and not to kill them, for it was there holden for Law, that the keeper himselfe might not iustifie the killing of any Deere without a warrant from his Master, Ergo hee could not licence any other man to kill a Deere or two Deere. And in like manner it is of all Forresters and keepers of the kings Forrest, their authoritie is onely to p̄serue and keepe the Deere for the king and for his vse, and not to kill or hurt any Deere, except they haue a sufficient warrant from the King their Lord and master, so to doe, or from his Justice in Eyre, and then for the seruing of the same, they may Hunt and kill Deere according to the Tenor of their warrant, And therefore seeing that the Law is so, that Forresters nor keepers may not Hunt nor kil any Deere themselves, without good warrant, then by the same reason, they may not giue any manner of lycence or warrant to any other men, to Hunt or kill any Deere in their libertie or Bayliwike: and in like sort, no Forrester, nor keeper, may in any sort Hauke to  
take

Pasche Anno  
2. E. 4. fol. 4.  
pl. 2.



take any Fesants or Partridges within his walke or Bayliwicke in the Forrest, for he is an Officer, that hath auctoritie by his office to maintaine and preserve them, but not to kill or destroye them, for, they are Foules of warren, and are by the Lawes to bee preserved for the Kings delight and pleasure. And everie Forrest hath charge of them, because that everie Forrest doth containe in it a Chase, a Parke, and Warren. And so a Forrest containing in it a Warren, he, that hath charge of any part or division in a Forrest, as a Forrester, hath also charge of those beastes and Foules that are beastes and Foules of Warren, Because that, as the same is a Forrest, so is it a Warren: and, as he, that is the Officer for the one, is also the Officer for the other, and therefore no Forrester, nor keeper, may either Hauke, or otherwise destroye any Foules of Warren himselte, nor yet giue any licence or warrant to any other, to Hauke or take any Foules of Warren within their walkes or liberties. And if a Forrester or keeper, that hath his office by Patent from the King, or from any other, doe mis-vse his auctoritie, or abuse his auctoritie, that is a cause of forfeiture of his Office, as hereafter in another place shall be shewed more at large. See in the Chapter of Forresters, and see also, in the Chapter of Abjdgments of the Assises of Pickring and Lancaster, in the title of Abuser, and in the Title of Forrester, and in the Title of Forfeiture.

5 Of the difference betweene a licence of pleasure, and a licence of profit.

**A**ND in the licences and warrants for hunting or Hauking within any Forrest, Chase, Parke, or Warren, it is

is necessarie to consider, first, whether that the same bee a licence or warrant of pleasure, or of profite. The difference betweene them is this, when any man hath a licence or warrant to kill or carie away the thing with him, that is Hunted, or that is taken by Hauking or Hunting, so that hee hath gained any propertie in the thing so taken by his Hauking or Hunting, then that is a warrant or licence of profite: But when anie man hath a licence or warrant to Hauke or Hunt, and yet when hee hath not gained anie propertie in the thing so taken by Hauking or Hunting, because hee is not to haue the same, then this is but a licence of pleasure, and hee, that hath a licence of pleasure onely, may not Hauke nor Hunt with anie more, but with himselfe: But hee, that hath a licence or warrant of profite, maye Hauke or Hunt with his friendes and seruantes with him. Note the difference.

And therefore in euerie licence and warrant for Hunting and Hauking, these five things are specially to bee considered.

- 1 By whome the licence or warrant is made, and whether he, that did make the same, may make such a licence or warrant, or not.
- 2 For what thing the same is, and what the substance thereof doth purport.
- 3 For what place it doth serue.
- 4 To whome it is graunted, and for what time.
- 5 Whether that the same bee a thing of pleasure or of profite.



- 6 Of him that hath a right, or interest to haue yearly a fee Deere within a Forrest, and of his remedie by the Law for the same,

**A** Man may haue a right or interest, to haue yearely certaine fee Deere within a Forrest by prescription, belonging to his office, as vnto the office of a Lincolnenant of the Forrest, or vnto the office of a Clerderer of the Forrest, and such like. And whereas the same hath alwaies bene vsed, the Forrester, who is to serue the same, is to take notice of them as good warrants, and to serue them accordingly, and hee, that hath any such office, and by reason of his office is to haue any such fee Deere, he ought to giue notice vnto the keeper or Forrester, where the same is to be serued, in meete and conuenient time, when and where the same shalbe deliuered, and to will him to execute this his warrant accordingly. And if the Forrester or keeper doe refuse to serue such a warrant, after such warning so giuen him, then the same Officer, who is to haue such a fee Deere, may enter into the walke of such a Forrester or keeper, so refusing to serue the same, with certaine of his seruants, and there Hunt, kill, and take such a Deere, as he is of right to haue, and that iustifie, both for himselfe and for his seruants, for, this is a warrant or licence of profit, and therefore he may Hunt with his seruants, for, this is holden as a Maxim in the learning of the Law, that, where any man hath an interest or right to any thing by the gift or graunt of any other man, or otherwise, and the partie, that hath such an interest or right, can not come to haue the principall thing, without the doing of some other Act or thing, which is the necessarie meanes to come by that principall thing, then he, that hath such an interest or right to haue the principall thing, may doe the other Act, or thing, which is the necessarie

necessarie meanes, whereby to come to haue the principall thing, as for example. It is holden for Law in Anno. 2. of Richard the second, that if a man doe graunt vnto me, all his trees growing in his wood, whereby I haue an interest in the Trees: in this case, I may enter into his wood, and there cut downe the Trees, and with Carts carie them away through his ground, and that iustifie, because that I haue interest in the principall thing, I may iustifie the necessarie circumstance and meanes to haue and come by the same. And in like manner, if a man doe sell me all his Fish in his Pond, so that thereby I haue a right or interest in the same, then may I come thorow his ground to come to the Pond, and there to Fish with Nets and such Tugins, and so take the Fish, and carie them away, and this I may lawfully iustifie, both for my selfe and my seruants, because that I haue an interest in the principall, I may iustifie the necessarie circumstance and meanes to come by the same.

Perkins, fol.  
23. Fisz. titu-  
lo Bar. 237.  
M. 2. R. 2.

And in 13. H. 7. in an Action of Trespasse, brought against one for hunting in a Parke, the defendant pleadeth, that the plaintife, being the owner of the Parke, gaue one Bucke vnto one B. and this defendant, as seruant vnto the said B. came with him vnto the said Parke by his commandement to helpe him to kill the said Bucke, by force whereof he entered into the said Parke, & there did kill one Buck, as lawfull it was for him to doe, and there the cleare opinion of all the Iustices was, that that was a good Justification, which case doth proue, that, where a man hath an interest or right, as an Officer, or otherwise, to haue a Deere, male, or female, then he may iustifie, the killing and taking of the same, both for himselfe and his seruants, being the necessarie circumstance and meanes to come to haue the same.

M. 13. H. 7. fo.  
10. placit. 9.

And in 13. H. 7. an Action of Trespasse was brought against one Wiseman and others, for hunting in a Parke, and

H. 13. H. 7. fo.  
13. pl. 2.



and the defendant pleadeth, that the plaintife being owner of the Parke, gaue licence vnto the Earle of Suffolke, to Hunt and kill certaine Deere in the same Parke, and the same Deere so killed to carie away with him at his pleasure, and saith that the said Earle by vertue of that licence at a certaine day &c. went to the same Parke, and these defendants with him by his commaundement, and there in the said Parke they did Hunt, kill, and carie away certaine Deere, as lawfull it was for them to doe. And this was there helde by the opinion of the whole Court, for a good Justification, both for the Earle, and also for his seruants: Which case doth also prooue, that, where a man hath a right or interest to haue a Deere, in a Parke or Forrest, hee may iustifie the killing of the same Deere both for himselfe and his seruants with him, and especially if the Forrester or keeper, who ought to kill and deliuer the same Deere, doe first refuse to kill and deliuer it: so that, when a man hath an interest or right to haue a thing, hee may alwayes iustifie those necessarie Actes and circumstances, that are the meanes to come by the same, for, otherwise, if the Forrester or keeper doe refuse, and will not kill, nor deliuer such an Officer his fee Deere, then if hee might not iustifie the killing and taking of the same himselfe, hee were without any remedie at all by the Law, to come by the same, but the Law is not so vnreasonable to leaue any man without his remedie, to come by that thing, which he hath a right vnto, And therefore the Law hath provided, that hee, that hath such an interest or right to haue such a fee Deere, if the Forrester or keeper will not kill it for him, but doth refuse the killing and deliuering of it, then the same Officer, or hee, that hath such a right or interest to haue such a fee Deere, may iustifie the killing and taking of the same, as well for his seruants as for himselfe,

selfe, because it is the meanes to haue and come by the thing, which hee hath right to haue, and if it doe fall out, that the Forrester or keeper doe afterwards complaine of such Hunting and taking of the same, as aforesaid, before the Justice in Eyre, or other Officer of the Forrest, then hee may there by pleading, or otherwise, verie well iustifie the same Hunting and taking of such a fee Deere, for such a Hunting and taking of a Deere by him, that hath a lawfull right thereunto, for his fee Deere, is not any offence, nor breach of the Lawes, Assises, or ordinances of the Forrest, for the wordes of the Assises and ordinances of the Forrest are, Si quis Ceperit feram sine warranto in Foresta, Corpus suum arrestetur, vbicunque inveniatur infra metas Forestæ, So that, although the Law be, that hee, that doth take a Deere within the Forrest without any warrant at all, shall bee arrested and punished, Yet hee, that doth take a Deere within the Forrest by good warrant, shall not bee punished for the same, for, the interest, or right of such an Officer of the Forrest, that hath alwayes vsed to haue such a fee Deere, is a good and lawfull warrant to the Forrester, to kill and deliuer the same himselfe if hee will, but if he will not, then Cateri volunt, others may lawfully doe it.

Assisa & Consuet. forestæ artic. 10.

- 7 Who so abuseth his licence or authoritie to Hunt within a Forrest, shall be a Trespasser, *ab initio*.

**B**Ut yet neuerthelesse, if he y<sup>e</sup> hath any licence or any such authoritie, to Hunt within the Forrest, doe mis-vse the same, then both he, & all they, that do Hunt with him shall be accounted trespassers, *ab initio*, y<sup>e</sup> is to say, trespassers in all that



11. H. 4. 74.  
placito. 16.

that they doe from the beginning as it is holden in 11. H. 4. in an action of Trespasse Quare vi & Armis domum suam fregit &c. the defendant pleadeth, not guiltie, to the force and Armes, and to the Rest, that he was seised of the same as in fee, and did let the same vnto the plaintife for terme of yeares, and so iustifie the comming into the house, when the doores were open, to see if the same were well repaired or not, and also if there were any wast done in it, and that was held for a good plea in Barre, whereupon the plaintife replying saith, that ouer and besides his comming into the same house to see if there were any neede of Reparations to be done, or that there was any wast in the same, that then and there he did also certaine Trespasses vnto the plaintife without his agree, For which cause hee was adiudged a Trespasser in all ab initio, and yet his comming into the house and ground, at the first was lawfull and also iustifiable, But because he did mis-vse his authoritie, Therefore he was adiudged a Trespasser in all ab initio. And in like manner, if he, that hath a lawfull authoritie to Hunt in the Forrest, and in his hunting there doth mis-vse his authoritie, then he shalbe accompted for a Trespasser in all ab initio, and shalbe punished for the same as a Trespasser of the Forrest.

8 Of a licence in Law, and a licence in Fait, and their difference.

**O**f licences, some are called licences in Law, and some are called licences in Fait, whose difference is in this sort, that is to say, that that is properly called a licence in Law, where any man hath a licence by word of mouth only without any witing, or by prescription, as belonging to some office of the Forrest: And that is called a licence in Fait, that is in witing vnder hand and seale to bee shewed.  
And

And it seemeth, that betweene common persons, a licence in Lawe, that is to say, a licence by word onely, without any writing, is good and of as great validitie, as a licence in writing: As it doth appeare by the foresaid case in 12. H. the 7. and in 18. E. 4. and in 13. H. 7. but whether a licence made by the king, to any subiect for to Hunt in any of his Forrests, by worde of mouth onely without anie writing, be good and pleadable in Lawe, or not, may be some question, because that the King doth not take anie thing by the gift or graunt of any man, but by matter of Recorde, neither doth hee graunt any thing to any other man, but by matter of record likewise: And yet it seemeth by the opinion of Shelly and Bryan in Anno 4. H. 7. that the king may giue many things without any writing, and that shalbe good for Chattels. And in 39. H. 6. in action of Trespasse, the defendant did there iustifie the Trespasse by pleading of a commaundement of the king, which commaundement was by word of mouth onely, without any writing, and that was held for a good Justification, and therefore it seemeth by this, that if a man haue a licence by word of mouth from the King, to Hunt in one of his Forrests, that if he do Hunt there by that licence, that he may verie well Justifie the same Hunting, although, that the licence were but a licence by word onely without any writing, for, in this Case, the Hunting is but a Trespasse, if he had no licence at all to Hunt, and if a man may plead the Kings commaundement by worde onely in barre of a Trespasse, by the same reason, he may plead the Kings licence by worde onely in barre, of a Trespasse. But in the case of a common person, I do hold it no question, that if the owner of a Forrest or Chase, do licence a man to Hunt in the same, by word of mouth onely, without anie writing, that such a licence is a good licence in Law.

It appeareth in 42. Edw. 3. that one, beyng Lord and

R

owner

12. H. 7. fol.  
25. p. 5. 18. E.  
4. f. 14. p. 12.  
13. H. 7. f. 14.  
p. 2.

Pasche 4. H.  
7. fo. 6. p. 2. in  
fine Calus.

M. An. 39. H.  
6. f. 17. p. 21.

M. 37. H. 6.  
f. 10. plac. 20.

Hillar. 42. E.  
3. fol. 1. pl. 8.



owner of a free chase, brought an action of trespassse against one, for Hunting and killing of his wilde beastes in the same, whereunto the defendaunt pleaded a licence of the Lord and owner of the Chase, by worde onely without any wytyng, which was there challenged by Fencott: and yet the plea in barre allowed for good by the Court, which proueth that a licence, made by a common person, by word onely without any wytyng, to Hunt in a Chase, is good, and see the like case in Termino Pasche An. 34. H. 6. fol. 43. plac. 3.

9 How trespassers and malefactors by Hunting in Forrests shalbe punished for the same.

**H**itherto it hath been declared, how and in what manner, men may Hunt, that haue any auctoritie thereunto, and of such as haue any lawfull colour or shadowe to iustifie their Hunting in the Forrest. Now it shall not be amisse, here in this place to speake some thing, of such as haue no Coloꝝ or Shadowe at all, to iustifie their Hunting by, and yet neuerthelesse do Hunt in the Forrest, and kill and destroy her Maiesties wild beastes there, or at the leastwise in their Hunting, if they do not kill any beaſt of the Forrest, yet they doo vehementlie disquiet the wilde beastes there, to the breach of their firme peace, which, all the Kinges and Princes of this Realme, haue alwayes graunted, mayntained, and allowed, and that the Lawes of the Forrest doo yet allow them, and, these are generally called Trespassers or Malefactors in Hunting in the Kings Forrestes. And if any Forrestier or Keeper shall finde or take any such person or persons with the manner, then he shall arrest their bodies, and carrie them to prison, from whence they shall not be deliuered, without a speciall warrant from the King, or from his Justice.

Justice in Eyre of the Forrest: the words of the Assises of the Forrest are these, Si quis ceperit feram sine warranto in Foresta, corpus suum arrestetur ubicunque inueniatur inframetas Forestæ, & quando captus fuerit, non deliberetur sine speciali præcepto domini Regis vel capitalis Iusticiarij Forestarum. If any man shall take a wild beast in the Forrest, without warrant, his bodie shalbe arrested, wheresoeuer he may be found within the bounds of the Forrest, and when he is so taken and arrested, he shall not be deliuered out of pylson, without a warrant from the king or from the chiefe Justice in Eyre of the kings Forrestes. And notwithstanding that the words there are, Si quis ceperit feram, if any man shall take a wild beast in the Forrest, yet if any be taken Hunting in the Forrest, although that he haue not taken nor killed any wildc beast in the Forrest, yet he is by the Lawe to be punished, as if he had killed and taken a wild beast of the Forrest, Quia per assisas Forestæ, voluntas reputabitur pro facto. It was adiudged in the Assises of the Forrest of Pickring in the time of E. 3. that he, that with a bowe and arrowes doth enter into the Forrest, with an intent to offend there, although that he do no act, yet he is to be punished for the same, as if he had done an act, Quia voluntas reputabitur pro facto. Itinere Pickring fol. 3. And likewise where an Abbot lent a Bow and arrowes to an other man, to the intent to kill the kings Deere, he was fined and ransomed for the same, and yet there was no Act done, Quia per Assisas Forestæ, voluntas reputabitur pro facto: and therefore, if a Forrester or keeper shall find any man within the Forrest, either with bowe and arrowes, or with Greyhounds, intending to offend there, he shall arrest him and imprison him, as if he had done the deed that he meant and intended to do. But, the Forrester or Keeper is not to arrest the bodie of such an offender, except that he do take him with the mayner:

See the ordinance of the Forrest made & established in An. 6. E. 1. artic. 10.

Itin Pickring fol. 3.

Itin Pickring fol. 5.



Asisa forest  
de Lancast,  
fol. 63.

and note that by the Assises of the Forrest of Lancaster, Taken with the maner, is when one is found in the kings Forrest in any one of these 4. degrees, viz.

Stable stand.

Dogge drawe.

Back Beare and

Bloudy hand.

Stable stande is, when a man is found in any Forrest at his standing, with a Crosse bowe bent, ready to shoote at any Deere, or, with a Long bow, or els, standing close by a tree with Greyhounds in his lease, ready to let slip, this is called by the auncient Forresters Staple stand.

Dogge draw is, where any man hath striken or wounded a wild beast, by shooting at him, either with Crosse bow or Long bowe, and is found with a Hound or other Dogge drawing after him, to recouer the same, this the old Forresters do call Dogge drawe.

Backe beare is, where any man hath slaine a wild beast in the Forrest, & is found carying away of the same, this the old Forresters do call Back Beare.

Bloudy hand is, where a man is found courling in the Forrest, or, that hath coursed, and is any manner of way imbrewed w<sup>th</sup> bloud, or, that is found imbrewed with bloud in any suspicious sorte in the Forrest, although he be not found Hunting or courling there. All these, are said to be taken with the mayner, and euerie Forrester or Keeper, that shall take any offender or offenders in any of these degrees, he is to arrest their bodies, if he can, and to imprison them, vntill that they be deliuered by the kinges especiall commaundement, or by the commaundement of the Lord chiefe Iustice in Eyre of the Forrest: See more of this matter in the seuententh Chapter of Nulances, in the fift Diuision. But the punishment of such offenders, by a Iudiciall sentence at the Iustice seat, is to

to be fined at the discretion of the Lord chiefe Justice in Eyre, and to be imprisoned, untill that he haue paid the same, and then and there to be bound to the good abearing of the Forrest afterward for euer.

By the Statute of 13. of Richard 2. capit. 13. It is enacted, that if any Artificer, Labourer, or other Lay man, which hath not landes or tenements to the value of fortie shillings by the yeere, or, if any Priest or Clarke, which hath not liuing to the value of x. pounds by the yeere, will haue or keepe any Greyhound, Hound or other Dog for to Hunt, or will vse Firrets, Haies, Nets or harepipes, cords or other Ingins, for to take or destroy Deere, Hares, Conies, or other Gentlemens game, he shalbe imprisoned by the space of one whole yeere.

13. Rich. 2.  
cap. 13.

And likewise it is enacted by the Statute of 14. H. 8. Capit. 10. That if anie person do trace, destroy and kill any Hare in the Snow with Dogge, Bitch, or otherwise, he shall forfeit for euery Hare so killed, sixe shillings and eight pence. And although that both these Statutes, may very well extend to inhibite such Trespassers and offenders, as shall commit anie such offences in any Forrests, Chales, or Parkes of the kings, yet they seeme rather to respect such offenders, as doo or shall commit anie such Trespasses or offences in the proper soyle of anie priuate person, then in the kings Forrestes, Chales or Parkes, for as much as the Forrest Lawes, that were before the making of these Statutes, had as strongly provided for such offences and offenders in Forrestes, Chales, and Parkes of the Kings, before, And yet it seemeth, that both these Statutes are made but in the affirmatiue of the auncient Lawe that was before, in which case the King may be at his choyce to proceede against offenders, according to the one or the other, at his pleasure.

An. 14. H. 8.  
cap. 10.



## A Treatise of      Cap. xviii.

Anno. 19. H.  
7. cap. 11.

And likewise by the Statute of 19. H. 7. cap. 11. It was enacted, that, if any person, having no Parke, Chase, or Forrest of his owne, doth keepe or cause to be kept, any Nettes, called Deere Hapes, or Buckstals, he shall forfeit for everie moneth, that hee keepeth the same, fortie pounds, to anie person that will sue for the same, by an action of debt, wherein no wager of Lawe, protection, or esloine, shalbe allowed.

Anno. 19. H.  
7. cap. 11.

And likewise it is enacted by the same Statute of 19. H. 7. cap. 11. That, whosoever doth stalk, or cause anie other person to stalk with any bushe or beast to any Deere, beyng in anie Parke, Chase, Forrest, or without, but in his owne ground, Forrest, Chase, or Parke, without licence of the owner, Paister of the game, or Keeper of the same ground, Forrest, Chase or Parke, shall forfeit for everie time, that he or they stalketh, tenne pounds to anie person, that will sue for the same, by action of debt, wherein no wager of Law, protection, or esloine, shalbe allowed.

It seemeth that this Statute is also made in the affirmative of the common Lawe, that was before for Forrests, so that the Lawe, that was before the making of this Statute is not taken away, as it should have beene if this Statute had beene made in the negative of the auncient Lawe, that was before, so that now, he that hath cause to proceed against any such offenders, may be at his election, either to pursue the offenders, according to the course of the ancient lawes, or els, according to the course of this Statute.

But it is thought by some men learned in the Lawe, that this Statute was not meant nor intended to extend, to such offenders in any of the kings Forrests, for as much as the king hath a chiefe Justice in Eyre for his Forrests onely, who hath by the Lawes of this Realme an absolute aucthoritie giuen him of himselfe, to heare and determine all manner of trespasses for Hunting, and all trespasses for  
ver.

vert and benison, done in any of the kings Forrests, & therefore they say, that it was not meant by this statute, to diminish his authoritie, and giue Iustices of peace, power and authoritie to deale in his office, and to punish such offenders, for Hunting in any of the kings Forrests, for which cause they say, that this Statute was made but onely for a more speedy remedie and redresse to be had against offenders and Trespassers in the Forrests, Parkes, and Chases of diuers subiects of this Realme, that they were owners of, and not to the kings Forrests. But yet we see by daily experience, that the learned Judges and Iustices of Assise in euery Countie, do hold the Law cleare, that this Statute doth aswell extend to the kings Forrests, as the Forrests of other men, or els they would not aslesse fines vpon offenders in the kings Forrests.

By the Statute of Anno 1.H.7.cap.7. it was Enacted, As. 1.H.7.  
cap.7. that at euery such time, as any information shalbe made of any unlawfull Hunting by night, or with painted faces in any Forrest, Parke, or Warren, to any of the Queenes Counsell, or to the Iustice of peace of the Countie, where such Hunting shalbe, of anie person suspected thereof, it shalbe lawfull to anie of the same Counsell or Iustice of Peace, to whome such information shalbe made, to make a warrant to the Sheriffe, or to anie Constable, Bayliffe, or other Officer of the same Countie, to arrest and take the same person, and to haue him before the maker of the same warrant, or any other of the Queenes Counsell, or Iustice of Peace of the same Countie, and the Counsellor or Iustice, before whom such person shalbe brought, haue power to examine him of the said Hunting, and of the doers thereof, and if he conceale the offence, or anie offender, it is Felonie: and if hee confesse the truth, and all that he shalbe examined of, and knoweth in that behalfe, then the offence of Hunting by him done shalbe against



the Queene, but trespasse fineable, to be assessed at the next generall sessions by the Iustices there, and that if any recusous, or, disobedience, be made to any person hauing authoritie to do execution, or Iustice, by any such warrant, by any person, which should be arrested, so that execution of the same warrant thereby be not had, then the same recusous and disobedience is felony, and the same felony shalbe inquired of and determined, as other felonies be.

10 Of the signification of these two words,  
*Hauking and Hunting.*

**T**his word Hunter and Hunting, is said to come of the French word Haunter, which doth signifie Frequentare. And as Budæus useth to say, Frequentare feras, to Hunt after wild beasts. And Terence was wont to say, Sectari belluas, apros, & ceruos: Ouid useth this phrase, Feras persequi, which is earnestly or greedily to pursue and follow after wild beasts, as Hunters vse to do. And therfore Hunters are oftentimes called by Budæus, Sectatores ferarum, that is to say Hunters or greedy pursuers of wild beasts, for Sectatores are properly such, as do pursue and follow after any thing, with subtil traps and Ingins to betray it, that they may pray vpon it in the end. We read in Genesis that Nemroth was the first that gotte vnto himselfe a kingdome, and yet he is not there called a king, but a stout and a mighty Hunter before the Lord, for as a holy Father, writing vpon the same place, saith, Quia, vt venator feras libertate fruente, ipse, homines, sibi compescuit obedire, that is to say, For, like as a Hunter subdueth wilde beasts liuing at their owne libertie, and by continuall pursuing of them, doth make them to yeeld to obey him: Euen so did Nemroth, by continuall pursuing of men, that liued after their owne willes and pleasures, make them to yeeld obedience.

Genesis Cap.  
10. b.

Iohannes Pe-  
pinus.

obedience vnto him, and so to liue in obedience and awe of the Law: And againe in the sixteene Chapter of the Prophet Ieremie, where the Prophet threatneth the punishment of God vpon the wicked, that do liue ydely and wantonly at their owne wils and pleasures, saith, I will send out many Hunters to Hunt them out from all mountaines and hils, and out of the Caves of stone, meaning thereby that there should come amongst them such persecutors, as should persue and Hunt them, so, that they shalbe forced to yeelde themselves from a wicked life to a reformed life, and that he would send them such persecutors, as neither mountaines, nor hils, nor Caves, should shroude them from. And therefore in that place, the Prophet vseth this metaphoz of a Hunter, Because that a Hunter doth so greedily pursue after the wilde beastes, that by the pursuing of them, hee doth make them to yeelde themselves vnto him from their wilnesse, to be come euen obedient vnto him. And Cicero vseth this phrase, *Opes. consectori*, which is greedily to Hunt after riches. And some olde Forresters doe affirme, that this English word Hunter is deriued of *Haunt Deere*, or, one that hunteth after Deere, And now vsed generally for the hunting of all maner of wilde beastes. And this word Hauking or taking of any kind of Foules, that are wilde, with Haukes, is called Hauking, of hauke taking, that is to say, of taking of them with Haukes, But Budæus vseth to say, *Aucupari volucres accipitre*, that is to say, to take wilde Birdes with a Hauke, And so *Captare volucres accipitre*, and, *insectori volucres accipitre*.

## Chap. xix.

- 1 *That Trespassers and offenders in Forrestes ought to be Attached, by the Ministers of the Forest, they finding them with the manner.*

2 If



- 2 If that such Ministers of the Forrest, of themselves, be not able, to take such Trespassers, then they may make Hue and Crie after them, and so to cause the countrie to rise and take them.
- 3 If that, after such Hue and Crie made, such Trespassers and offenders doe still continue their euill doing, and will not yeelde themselves to bee taken, then, if the Forresters, or, they, that doe come to aide them, doe chance to kill any such offender in arresting or taking of him being within the limits & bounds of the Forrest, they shall not forfeite any goods, or, any other thing, nor otherwise be arraigned for the same.
- 4 If that any such offenders will not yeelde themselves to be taken, but doe rather flie out of the Forrest, so the end that they will not be knowne nor taken, then in some Cases, they are still to be followed and pursued with Hue and Crie, untill that they be taken: and in some other cases, they are to bee pursued with fresh sute within the view onely.
- 5 That all the commanders, ayders, receiuers, and assisters, of Trespassers and Malefactors in the kings Forests, are all principall offenders, as wel as they that did the offence: for, in Trespasses of the Forrest, there are no accessaries, as there are in Felonies.
- 6 How, and in what manner, Hue and Crie shalbe made after an offender of the Forrest.
- 7 By whome, the same shalbe made.
- 8 How, and in what manner, the same shalbe pursued and followed.
- 9 In what manner, they are to be punished, that doe refuse or neglect to follow the Hue and Crie, or, to helpe to take offenders and Trespassers of the Forrest.
- 10 In what cases, and for what offences, or, Trespasses of the Forrest, Hue and Crie is to be made.
- 11 Whereof called Hue and Crie.                      1 That

- 1 That Trespassers and offenders in Forrests, ought to be Attached, by the Ministers of the Forrest, they finding them with the manner.

**I**f any Malefactor, or, trespassers, doe chance to come into the Forrest, with an intent to doe hurt or Trespasse to the game of the Forrest, if the Forresters, in whose Bailiwick they are, doe vnderstand thereof, or doe find them with the manner, either doing of any such Trespasse, or about to doe any Trespasse of the Forrest, euerie such Forrester & other Minister of the Forrest, is bound by his office, to apprehend & take such offenders & trespassers, if they can by any meanes. And first y<sup>e</sup> Forrester himselfe, in whose Bailiwick such offenders are so trespassing, is bound by his oth to Attach them, if he can by any meanes, And also he is likewise bound by his office, to Attach & apprehend such offenders, trespassing in his Bailiwick, vpon paine of forfeiture of his office, for, if any Forrester of the Forrest doe willingly suffer any offenders to kill or destroy the game of the Forrest, and hee being negligent will not attach or apprehend such offenders therefore, this is a forfeiture of his Office, as it is holden in the long Report of Anno 5. Edward the fourth, called Long quinto and likewise it doth appeare in Anno 5. of Edward the fourth, in the short Report, that a keeper of a Parke, hauing a grant from the owner of the same Parke, for that Office together with a yearly fee for the same, and because the Deere in the Parke were killed and destroyed by offenders in the Parke by the negligence of the keeper, that was there holden for a forfeiture of his Office. And the like Law is of a Forrester, that

Vide Long:  
quinto E. 4.  
fol. 16. b. &  
fol. 17.  
Trini. Annos  
E. 4. fol. 5a.  
pla. 64.



Assisa & con-  
suetudines  
forestæ An. 6.  
E. 1. Artic. 11.

that hath charge of the game in the Forrest, Whereby it doth appeare, that euerie Forrester is bound, vpon paine of forfeiting of his office, to Attach and apprehend such offenders in his Bayliwike, or walke, if he can. And it doth also appeare by the statutes and ordinances of the Forrest, called Assisa & Consuetudines Forestæ, that not onely the Forresters and Ministers of the Forrest, that hath charge of the game, alone are bound to apprehend such Trespassers and offenders, but also, euerie other person, that is dwelling or abiding within the Forrest, shall likewise doe his uttermost indeuour to Attach and apprehend such offenders and Trespassers in Forrests, for, the words are these, Si quis viderit aliquos Malefactores infra metas Forestæ aliquam feram capere vel asportare, debet illos capere secundum posse suum &c. If any bodie shall see any offenders or Malefactours, within the bounds and limits of the Forrest, to take or carie away such wilde beast of the Forrest, hee shall doe what he may to take them, and if he cannot take them himselfe, he shall cause Hew and Cry to bee made after such offenders, to the end to cause them to be taken thereby. And to the intent, that euerie inhabitant and dweller within the Forrest should bee the more willinger to put this Law in execution, it is appointed and commanded by the Assises of Henry the second, called the Assises of Woodstocke, that euerie man within the Forrest shalbe sworne to the peace of the Forrest, in these words. Item Rex præcipit, quod omnis homo, habens ætatem duodecim Annorum, manens infra pacem venationis, iuret eius pacem, ac clerici Laicum feodum tenentes, which is, That the King commaundeth, that euerie man, being of the age of twelue yeares, remaining within the Forrest, shall sweare the peace of the Forrest, And also Clergie men holding Lay fees, shall likewise sweare the peace of the Forrest: Whereby it doth manifestly appeare, that the auncient Lawes and Assises of the

Assisa forestæ  
H. 2. Artic. 15  
Called the Assises of Woodstocke.

the Forrest are, that euerie man, abiding in the Forrest, must be sworne to keepe the peace of the Forrest, And being so sworne to keepe the peace of the Forrest himselfe, he may not consent to suffer others to breake the peace of the same, but that he must doe his vttermoost indeuour to auoide such breach of the peace.

- 2 The Ministers of the Forrest may make Hue and Crie after such offenders, if themselves cannot take them.

**A**ND as euerie Forrestier and Minister of the Forrest, is by his office, oth, and dutie, bound to arrest and Attach such offenders and Trespassers, himselfe, if he can: so likewise, to the end that such Trespassers and offenders in Forrests shall not escape awaie unpunished for such offences, the Lawes and Statutes of this Reakne haue prouided, that, if such Forrestiers and Ministers of the Forrest cannot, nor bee not able of themselves, to take and arrest such offenders, then they may by the Statute of 21. E. 1. and also by the ordinances of the Forrest made in Anno 6. E. 1. Articulo 11. make Hue and Crie after such offenders, and thereby cause the countrie to rise, and so to take such offenders, as if they were Felons.

Vide the Statute of Anno. 21. E. 1. Affisa & conuetudines forrestarum made in Anno. 6. E. 1. artic. 11.

- 3 No forfeiture for killing within the Forrest, after Hue and Crie made, such offenders refusing to yeeld.

**A**ND after such Hue and Crie made, and that the countrie doe rise, and repaire to the place, where such offenders are, if they doe still continue in executing their malice, or, doe flie, or defend themselves with force of armes, disobeying the Kings peace, And being required to yeeld themselves



selues to the kings peace, doe refuse so to doe, and will not peelde themselves, Then, if any person or persons, coming thither to ayde, or assist any such Forresters, or other Ministers of the Forrest, shall chance to kill any such offender or offenders, being so found within the boundes of the Forrest, either in arresting or taking them or any of them, they shall not be arraigned vpon the same before the King and his Iustices, or, before any other the kings Baylives, or any other within any Franches, or without, nor shall leele for so doing either life or limme, or suffer any other punishment, but shall enioy the Kings peace, as they did before.

21. E. 1. called  
the Statute de  
malefactori-  
bus in parcis,  
see the same  
in Magna  
Carta fo. 117.  
b.

But here let euerie man take heede and beware, that such killing bee within the boundes and limits of the Forrest, for, if the same doe chaunce to bee done without the bounds and limits of the Forrestes, although it doth light vpon such, as were Trespassers in the Forrest before, and in flying out of the Forrest, yet then the Law is otherwise, and the case is altered, for, the wordes of the Statute are, that if anie Forrester &c. shall finde anie Trespasser within his libertie, that then hee may doe this, but not being out of his libertie, for, if that they bee out of his libertie, hee can not doe so: Wherefore, consider the Statute and peruse it well.

And heere note, that for this cause, and manie other like causes, that may fall out, the true boundes and limits of euerie Forrest are most necessarie to bee knowne, not only vnto all the Officers of the Forrest, but vnto all other persons whatsoever.

- 4 When such offenders are to be followed with Hue and Crie, vntill they be taken, and when with fresh sute within the view onely.

**A**nd if that any such trespassers or offenders doe chance to come into the Forrest, and doe a Trespasse there, And the Forrester, in whose Bayliwicke the same is, vnderstanding thereof, prouiding himselfe, strongly accompanied with his owne men, and other neighbours and friends, coming to the place within his Bayliwicke or libertie, where such offenders are trespassing, and they seeing the Forrester, and others so prouided to come to take and apprehend them, they flie out of the Forrest, yet neuerthelesse the Forrester is to attach and apprehend such offenders, if hee can, although that they be out of the Forrest, if hee pursue and follow them with fresh sute, and within his view, or otherwise not: but if hee can not so doe, then the Forrester is to make diligent inquirie, what persons the same were, as thus.

- 1 That his name, and, surname was.
- 2 In what shire and Towne he is dwelling.
- 3 What companie he had with him.
- 4 What was their names and surnames.
- 5 In what shire and Towne they are dwelling.
- 6 Who were their ayders, receiuers or directors to doe any such Trespasse.
- 7 What offence and Trespasse they did in the Forrest.

And although that such Trespassers and offenders of the Forrest, being fled out of the Forrest, and are without the limits and boundes of the Forrest, the Forrester following them with freshe pursute within his viewe, may there arrest them, but yet then in this Case, the Forrester cannot iustifie the vsing of anie such extreame



extreame and forceable meanes, to arrest and Attach such offenders, as hee might doe, if they were still remaining within the bounds and limits of the Forrest, but if such a Forrester cannot in any reasonable sort arrest or Attach such offenders, without some danger either to himselfe, or to the offenders, it shalbe better and a more easier course for such Forresters, to make diligent inquirie after such offenders according to these former instructions, and then after the certaintie thereof learned in euerie point, as aforesaide, to make a true presentment thereof at the next Swanimote, or, Court of Attachments, which shall first happen for the same Forrest, and then vpon that presentment, found and certified to the Lord chiefe Iustice in Eyre of the Forrest, by the testimonie of the Verderers, according to the ordinances of the Forrest made in Anno 6. Edward the first in these words, *Debet forestarius hoc intimare iusticiario per testimonium Viridariorum &c.* which is, that the Forrester in such a case, is to informe the Lord chiefe Iustice in Eyre of the Forrest of such offenders, and of the same presentment against them by the testimonie of the Verderers, that the same is true, And then, vpon that presentment, and certificate to the Lord chiefe Iustice in Eyre, hee may cause such an offender, or offenders, by his speciall warrant, to be arrested, wheresoeuer they are in England, and to imprison them, vntill they shall put in sureties to answer the offences and Trespases, as they haue done in the kings Forrest, and by this course the Forrester shall verie well discharge the dutie and office of a good Forrester, with lesse trouble and danger to himselfe then in the other course before. And likewise, vpon such a presentment so made, as is aforesaid, such offenders may bee Outlawed vpon a Trespasse at the sute of the King, if the names of such offenders be knowne, and therefore the name of such offenders, and the name of the Towne, where they doe dwell, is to be inquired

*Affisa & Con-  
suet. forestar  
6. E. 1. art. 15*

quired and learned out by the Forresters: As it doth ap-  
peare by the Assises and Ordinances of the Forrest made  
in Anno 6. Ed. the first, in these woordes: Si quis atta-  
chiabilis fuerit &c. debet distringi per catalla sua infra  
metas forestæ inuenta: sin autem defecerint, corpus eius  
detineatur, quousq; fecerit quod debuerit: Et si extra me-  
tas forestæ fuerit manens, nomen eius & villa vnde sit, irro-  
tulentur, which is, that if any man be found attachable  
for any offence of the Forrest, he shall be distrayned by  
his cattell, if he haue any within the boundes of the For-  
rest that may be found: But if he haue no cattell to be  
found wythin the boundes of the Forrest, then his bo-  
die shall bee attached, where soeuer he may be taken,  
and detayned in pryson vntill that hee haue done that  
he ought to do in that behalfe: and if he be abyding with-  
out the boundes of the Forrest, then his name and the  
towne wherein he dwelleth, shall be inquired and inrolled  
in the Roll of the Clerderers. By this it appeareth, that  
the Forrester must of necessitie learne, what the names of  
such offenders are, and of whence they are, and such other  
necessarie circumstances. But here note, that no For-  
rester, nor other officer of the Forrest, may take vpon  
them to arrest or attach the body of any trespasser or offen-  
der of the Forrest, being without the limits and boundes  
of the Forrest: vnlesse that such offenders or trespassers be  
followed out of the Forrest with fresh pursuit alwaies  
within the view of such pursuers or followers: for then,  
in that case, it seemeth that such trespassers or offenders  
of the Forrest, being so followed and pursued with fresh  
suit alwaies within their view, although they be wyth-  
out the limits and boundes of the Forrest: yet neuerthe-  
lesse, the Forresters may arrest and attach the bodies of  
such trespassers and offenders, as they might do, if they  
were still within the limits and boundes of the Forrest,

Assisa & con-  
suetudines  
forestæ artic.  
5.

S

(wounding,



(wounding, beating, and killing, which in some sort is justifiable by the foresaid Statute of 21. of Edward the first, within the limits and bounds of the Forrest, onely excepted,) and the reason is, because that when such offenders or trespassers are trespassing in the kinges Forrest, then the Forrester hath a sufficient aucthoritie & warrant by his office, to arrest and attach such offenders and trespassers, to answer the king for the said trespassse & offence: And if such offenders or trespassers, because they will not be arrested or attached, do flie out of the limits of the Forrest, yet the Forrester in that case, following them wryth fresh lute within his view, may arrest and attach their bodies, and imprison them, or cause them to find Sureties and pledges to answer for such trespassses and offences unto the king: For, as I do take it, in this case, the office and aucthoritie of a Forrester, in arresting such offenders, is like unto the office and aucthoritie of a Shirife, declared in 2. Ed. 4. who hauing a writ deliuered him to arrest a man being within his Countie, and in coming towards him to arrest him, he seeth him come, and flieth into an other Countie, in this case, the Shirife may freshly pursue him within his view, and take and arrest him in an other Countie: But yet in that case, he may not assault nor beat him, for that he was not arrested before in the first Countie: But if he were first arrested in the Countie, where he was first found, and afterwards flie into an other Countie with his sword naked in his hand, then he may pursue him, and assault and beat him to take him againe. And likewise in 3. Ed. 4. it was holden, that if the Shirife do come to arrest one, & he flie from him into an other Countie, there he may freshly pursue him & arrest him in the other Countie. And it seemeth, that a Forrester or Keeper of the kinges Forrest may do the like, as it hath been holden by the opinion of the learned heretofore: but that is but in case

Pakch 2. E.  
4. bo. 6. p. 74

3. E. 4. fo. 8.  
& 9. fl. 4.

case where the Forrester, or other such like minister of the Forrest, do follow and freshly pursue such offenders within his view, or els, that he haue especial warrant & aucthoritie from the Lord chief Justice in Cire of her Maiesties Forrest, to arrest such offenders wheresoeuer they shalbe found: Then, by such special aucthoritie & warrant, a Forrester or any other person may arrest or attach the bodie of any such trespasser of the Forrest, wheresoeuer they shalbe found or taken. And in some cases, offenders in Forrestes may by their trespassing there, commit felonie in taking of a wild beast, after that the same is killed: As for example, if any Forrester of the kings Forrest haue slaine a Deare, for the vse & seruice of the king, & leauing the same in the Forrest in some certain place, while he doth go to his lodge or house for a horse & help to carrie the same away, offenders being then in the Forrest, seeing him gone, and the Deare to be left there, they do with a felonious intent take and carrie away the same Deare, this is felonie by the Law, and the offender in that case is to suffer and forfeit for the same, as in other cases of Felonie. And I do take the Law to be so by the reasons of these bookes and cases following.

First, it appeareth in 12. Lib. Ass. that a Forrester was indicted, for that he did feloniously cut downe and carrie away certain Trees, but the Justice would not arraigne him for that act, as for a Felony: for they say, that the trees growing there are things annexed to the freehold, of which a man can not commit felonie: But if the trees had been cut downe by the Lord or owner of them, & then the Forrester had carried them away wyth a felonious intent, this had been Felonie. And by the same reason, if a trespasser in the Forrest, do take a Deare in the kings Forrest in his wilfulness, this is but a trespassse of the Forrest: But if a Deare be first killed by the Forrester or owner of the Forrest, & then afterwards by an other taken away wyth a felonious

12. Assisarum  
pla. 32.



22. Aff. p. 95.

T. 12. H. 8. fo. 3. fo. 4. per Brook.

18. H. 8. fo. 2. pla. 11.

Pasch. 18. E. 4. fo. 8. pla. 7

Mich. 18. H. 8. fo. 3. pla. 11.

felonious intent, then the same is felonie in him that so doth take the same away. And in 22. in the booke of Assises, it is holden, that if a man do with a felonious intent take Doves or Fishes in their wildnes, that can not be said to be felonie: But if Doves be taken out of a house, or, Fish out of a trunck, with a felonious intent, then such taking of them is felonie: Then eadem ratione, if a man do take Deare in a Forrest in their wildnes, and carrie them away with a felonious intent, yet that is but a trespassse: but if the Deare be killed by the owner of the Forrest, or by the Forrester, and afterwarde an other man with a felonious intent do take and carie the same away, that taking is felonie.

And in like manner it is holden in 18. Henry the eight, that if a man do take Appels out of an orchard growing upon the trees, or, cut downe trees, and carrie them away, or, Cozne growing upon the ground, although that the same be taken with a felonious intent, yet that taking is not felonie: for that, that at the time of the taking of the same away, the same was parcell of the freehold, and therefore it can not be said to be felonie: But if Appels be gathered from the trees by the owner, and left in the orchard, and an other man with a felonious intent doth take them away, that is felonie: Or if a man do take away trees that are felled, or cozne that is reaped and left in the field, that is felonie: Eadem ratione, if Deare be taken in a Forrest in their wildnes, that taking is but a trespass: but if they be killed by the owner or Forrester, and afterwards taken away with a felonious intent, that taking is felonie.

It is also holden in 18. H. 8. that if yong Herrons, or Swannes be taken out of the neasts: or els a Buck or Hind, which is domesticall and tame, be taken away with a felonious intent, that taking is felonie: And then by the

by the same reason, Deare which be killed, be out of their wild nature, and of the nature of tame Deare, and therefore the stealing of them from the owner is Felonie: And then in such a case, when any such malefactor, that haue committed any such fact within any of the kinges Forrestes that is by the Law Felonie, Then Hue and Crie may be made after them, whether so euer they do go, as after Felons at the common Law, vntill that they be taken and apprehended for the same. But whether a Forrester may so pursue and follow after him, that hath committed but a trespassse of the Forrest onely, with such Hue and crie, whether so euer he goeth, being out of the Forrest, *Quare*, for I do doubt of it. The wordes of Alsisa & consuetudines forestæ are these, Si quis viderit malefactores infra metas forestæ aliquam feram capere vel asportare, debet illos capere secundum posse suum: Et si non possit, debet leuare hutesum & clamorem: Et si non fecerit, remaneat in misericordia domini Regis, If any man shall see any malefactor within the boundes of the Forrest, to take or carie away any Deare, (or, wild beast) for so are the wordes, he shal do what he may to take them: but if he can not take them, then he shall leuie Hue and crie, and if he do not so, then he shall remaine in the kinges mercie. It is thought by some, that this Hue and crie is to be made, but onely within the bounds of the Forrest to take them. And they do the rather think so, by the wordes of the tenth article, being the next before in the same Assises of the Forrest, where the wordes are these: Si quis ceperit feram sine warranto in foresta, corpus suum arrestetur, vbicunq; inueniatur infra metas forestæ: So that by that article it appeareth, that, if any man, as a trespassser of the Forrest, do kill and take a Deare, his bodie shall be arrested, where so euer he may be found within the boundes of the Forrest: Therefore, without the boundes

Alsisa & consuetudines forestæ artic. 11. anno 6. H. 1.

libm artic. 10.



of the Forrest, (say they) the Forrester may not arrest him by his bodie, except he be followed with fresh sute within the view, as aforesaid: And then by the same reason, that the Forrester can not arrest the bodie of such a trespasser, being without the boundes of the Forrest, By the same reason, he can not pursue such a trespasser wyth Hue and crie, to cause him to be arrested and taken wythout the limits and boundes of the Forrest.

5 That none are Accessories in the trespasses of the Forrest, but all are principals.

**A**ND concerning trespassers and offenders in the kings Forrestes, this one thing is especially to be noted: That all Commaunders, Ayders, Receauers, and Assisters of malefactors in the Forrest wittingly, they are all principall trespassers, aswel as they that do the fact it selfe: for, in trespasses of the Forrest there are no accessories, but all are principals: For it appeareth by the Assises of Pickring, that, if any man do receiue any Venison of a trespasser in the Forrest, he shall be aswell punished, as he, that did the trespassse in the Forrest. And it is also there holden, that, if any man do procure, ayde, or receiue any other man into his house wythin the Forrest, to thintent the same person may there do any trespassse or offence in the Forrest, euery such ayder, procurer, and receiuer, is a principall offender and trespasser of the Forrest, and shall be punished in euery degree, as the principall actor himselke shal.

Assisa forestarum  
de Pickring  
fo. 3. fo. 5.

Ibida.

Hill 13. H. 7.  
fo. 12. pla. 1.  
fo. 13. pla. 5.  
38. h. 3. fo. 18.  
38. Assis. p. 6.  
32. Assisatum  
pla. 43.

And it doth appeare by a case of Hunting in 13. Henry the seauenth, that if a man do commaund an other man, or diuers men, to do a trespassse in the kings Forrest, as to hunt or chase the Deare in the Forrest, or in a Chase, Park, or Warren, in that case, the commaunder is aswell a principall trespasser in the Forrest, as they that were there

there to do the fact : for in trespasses all are principals, and there are no accessaries in such trespasses.

6 How Hue and Crie shall be made after an offender of the Forrest.

**A**ND as for Hue and Crie after such trespassers and offenders in the Forrest, how, and in what manner the same shall be made : It is to be understood, that, when any Forrester, or other minister of the Forrest, shall find any such malefactors or trespassers within the Forrest, doing or intending hurt or damage to the Forrest, and will not obey the arrest of such Forrester or other minister, then they are forthwith to make an outcrie unto the inhabitants and next dwellers within the same Forrest, where any such offenders shall so be found, willing and requiring them in the kings name, seeing that such offenders will not obey the arrest of the said officers, to ayde, helpe, and assist them to pursue & follow such malefactors and trespassers, from towne to towne, village to village, and place to place, within the limits & bounds of the Forrest, untill that by reason thereof they be taken : And then they being so taken with the manner, they shall be imprisoned and there detayned, untill that they shall find sufficient Suerties & pledges, to answer the king for the same trespass, before the Lord Justice in Cite of the Forrest, and such imprisoning or taking of suerties and pledges of such trespassers and offenders in the Forrest by the Forrester, is iustificable by the Lawes : As it doth appeare in 45. Edward the third, where one brought an action of Trespas against a Forrester of a Forrest, for the taking and imprisoning of the plaintife at such a place, And there the defendant pleadeth, that he was a Forrester in fee of the Forrest of B, and that the

Paschz 45. E.  
3. fo. 7. pla. 8.



plaintife at a certain Court of Swannimote holden for the same Forrest, was presented by the Forresters, Verderers, Regarders, and Agisters of the same Forrest, that the said plaintife had chased within the said Forrest, and there taken one Deare, whereupon the defendant came to the plaintife, and prayed him to find pledges to answer the same offence before the Iustices in Cire of the Forrest in the Countrey, which he refused to do, by reason whereof the said defendant did detaine him in his custodie, untill he had performed the Statute in that behalfe, And upon that plea the issue was taken, whereby it was well proued that the Forrester might haue taken pledges of him, and so haue deliuered him, and also that it was lawfull for the Forrester to detaine him in his custodie and to imprison him, untill he did find pledges, or otherwise, when any such Forrester or other minister of the Forrest, shall so take any such offenders or trespassers of the Forrest, they may cary them before the Lord Iustice in Cire of the Forrest, and there relate all the whole matter and the manner of their trespass and offence, that they haue done, and thereupon the Lord Iustice in Cire will eyther take pledges of them to answer the said trespassse, or els commit them to prison.

7 By whom Hue and Crie shall be made.

**B**Ut now to retorne again to my former matter of Hue and Crie, and by whom the same hue and crie shall be made after such offenders and trespassers of the Forrest: In this case it is to be noted, that this Hue and Crie of the Forrest is most properly to be made by the Forrester him selfe, because that most commonly he is a man well known vnto the countrey: and therefore euery man will the more willingly be ready to follow the same. But yet neuer.

neuerthelesse, any other officer or minister of the Forrest, or any other inhabitant of the same, may very well in such a case make Hue and crie vpon and after such offenders, as it doth plainly appeare by the verie letter of the Law in the Assises & ordinances of the Forrest, in these woordes, Si quis viderit malefactores infra metas forestæ &c. debet illos capere secundum posse suum, & si non possit, debet leuare hutelium & clamorem: Where note, that the woordes are generall, that is to say, If any man shall see any offenders or malefactours within the boundes of the Forrest, he shall to the uttermost of his power take them, but if he can not take them, he must make Hue and Crie after them, or els he shall remaine in misericordia Regis for the same.

Assisa & consuetudines forestæ adie in anno 6. E. 1, artic. 11.

#### 8 How Hue and Crie shall be followed.

**A**ND after Hue and Crie so made as aforesaid, the same is still to be followed and pursued with fresh pursute, after such malefactours and offenders, so long as they are remayning within the boundes and limits of the Forrest, vntill that they shall be taken thereby.

#### 9 The punishment of those that refuse to follow Hue and Crie, and to help to take offenders in the Forrest.

**A**ND if that any Village or Towneship wpythin the limits and bounds of the Forrest, after such Hue and crie made by any minister of the Forrest, as aforesaid, be negligent in any point, to ayde or help them to take such offenders, or to pursue or follow after any such malefactours, or do refuse to pursue and follow the same, then euery such default of any one person or village, or towneship, so offending, shall be presented by the Forrester of the



## A Treatise of      Cap. xix.

Itinere Lan-  
cast. fol. 7.

the same baillywike, at the next Court of Swannimote, or Justice Seat, which shall first happen: And if afterwards upon that presentment of the Forrester, the offenders therein shall be duly convicted according to the order and common course of the Lawes of the Forrest in that behalfe: Then shall the Towneship, Village, or partie so offending, be well fined for the same: as it doth appeare in Itinere Lancastr' fol. 7.

10      When, and for what offences Hue and  
Crie is to be made.

Assisa & con-  
suetudines  
forestarum facte  
in anno 6. E.  
1.

Assisa & con-  
suetudines  
forestarum artic.  
11.

**B**Ut it seemeth aswell by the auncient articles of Hue and Crie: as also by the Assises and customes of the Forrest, made and set forth in Anno 6. Ed. 1. that such Hue and Crie is not to be raised nor made by any minister of the Forrest, for every trespassse and offence, that may be done in the Forrest: but onely for some certein particuler trespassses of the Forrest, that is to say, for such trespassses and offences as are done in hunting and distroying of the wild beastes of the Forrest: as it doth appeare in the same Assises of the Forrest made in Anno 6. Ed. 1. articulo 11. in these woordes: Si quis viderit aliquos malefactores infra metas forestarum aliquam feram capere vel asportare, debet illos capere secundum posse suum: Et si non possit, debet leuare hutesum & clamorem: Et si non fecerit, remaneat in misericordia domini Regis, so that by this it is plainly declared, that if any man shall see any offender in the Forrest about to take or carie away any Deare, he shall take such an offender if he can: but if he cannot take him, then he is to make Hue and crie after him: So then Hue and crie is to be made, but after such as are hunters and takers of Venison in the kings Forrestes,

Forrestes, and not after such as shall commit a trespassse in the Vert of the Forrest.

11 Whereof called Heu and Crie.

**T**hese woordes, Heu, and Crie, the first being a Latine woord, the other a French woord, are auncient woordes of vse in the Lawes of this Realme, & verba enim sunt dolentis, they are alwaies woordes of weeping and lamenting, and do signifie some sodaine chaunce that hath hapned or fallen out, for the redresse whereof men do commonly vse to crie to other for help: As in the 10. Chapter of Tobias, when old Tobias and his wife saw that their sonne returned not againe, fearing that there had chaunced some sodaine misfortune vnto him, the woman in her sodaine grieffe vttered these woordes, heu, heu, me, fili mi, vt quid te misimus peregrinari, alas, alas, wo is me my sonne, O what ment we to send thee away into a straunge countrey. And this woord Crie, in French, is a sodain shout or outcrie for help, and according to that sence, these woordes haue alwaies been in vse in this land, so that when any man hath receiued any sodain hurt or harme, either towards his owne person, or his goodes, by felons, theeuers, or such like offenders, then they, that haue so receiued the same, haue vsed presently to follow and pursue the offenders with Heu and Crie, that is, with a for rowfull and lamentable Crie, for helpe to take such offenders.

Tobiath in  
the 10. chap-  
ter.

Chap.



## Chap. xx.

- 1 *What Purlien, or rather, Pourallee is.*
- 2 *How the same did first begin.*
- 3 *Whereof it toke the name of Purlien, Pourluy, or Pourallee.*
- 4 *That the Purlien in some sort is Forrest still.*
- 5 *That yet neuerthelesse the Purlien is free for some men in some sort to hunt there.*
- 6 *Of the difference between the Forrest and the Purlien.*
- 7 *Of the difference between the Purlien, and that which is no Purlien, nor Forrest, but is absolutely free.*
- 8 *Who may hunt in the Purlien, and who shall be said to be a purlien man.*
- 9 *In what sort a purlien man may hunt in the Purlien.*
- 10 *When, and how often a purlien man may hunt there.*
- 11 *How far a purlien man may pursue and follow after his chase.*
- 12 *When, and in what cases a purlien man may pursue and follow his chase into the Forrest, and there take and haue the thing so chased and killed, and when not.*
- 13 *Of the Ordinances and Lawes of the Purliens, and of their first beginning.*
- 14 *How, where, and in what sort, the offences and trespasses, that are done and committed in the purliens, shall be tried and punished.*
- 15 *That because in some sort the Purlien is Forrest still, therefore the king hath certein Officers there, that do attend vpon the same, and haue charge of the Purliens, which are called Raungers, being officers rather to the Forrest, then in the Forrest.*

16 *How*

16 *How a Raunger is made, what his oath, authoritie and office is, and wherein the same doth chiefly consist.*

17 *Whereof called Raungers, or Raunger.*

1 What Purlicu, or rather, Pourallee is.



**P**urlicu, or Pourallee, is a certain Territorie of ground adioyning vnto the Forrest, meered and bounded wth vnmoueable markes, meeres, and boundaries, known by matter of Record onely: which Territorie of ground was also once Forrest, and afterwards disafforrested againe by the perambulations made for the seuering of the new Forrestes from the old.

2 How the same did first begin.

**A**nd the Pourallee, or Purlicu, as some men do call it, did first begin in this manner, that is to say: When King Henry the second of that name (a French man bozne, the second sonne of Geoffrey Plantagenet Earle of Anioy, begotten of Maude the Emperesse, and therefore called of many Henry fitz de Emperesse) came first to be king of this land, which was in the yeare after the incarnation of our Sauioꝝ Christ 1154. he toke so great delight and pleasure in the Forrestes here in this land, that being not contented with those Forrestes, that he then found already made, (although they were many in number, and verie large and great in compasse) but he began, yea euen within a few yeares after, to enlarge diuers great Forrestes,  
and



and to afforest the lands of his Barles, Barons, Noble men, Gentlemen, and others, that were any way neere adioyning vnto those Forrestes, and thus they continued during all the time of his Raigne: And after his decease, king Richard the first, his second sonne succeeding him, as next heire vnto the Crowne, when he came to be king of this land, within a short time after, he began to follow the steps and examples of his father, not onely in the delight and pleasure that he tooke in Forrestes, but also in the daily afforesting of all such landes that were any way neere adioyning vnto any of his Forrestes: By reason whereof, the enlarging of Forrestes did more and more increase continually during the Raigne of these two kinges: And after the decease of the foresaid king Richard the first, king Iohn his brother, the yongest sonne of the said king Henry the second, succeeding him, as next heire vnto the Crowne, came to be king of this Realme, in the yeare after the incarnation of our Saviour Christ 1199. This king Iohn, in like manner, within a while after that he came to be king, began by litle and litle to follow the examples of his father king Henry the second, and king Richard the first his brother, in afforesting of the landes of his subiects, that were any way neere adioyning vnto any of the Forrestes of the said king: So that by the new afforestations of these three foresaid kinges, the Forrestes in every place were so much enlarged, that the greatest part of this Realme was become Forrest, to the great grieve and sorrow of all the best sort of the Inhabitants of this land: for, by reason that the bondage of the Forrest was then so great, and the Lawes so sharpe and cruell, that it was almost impossible for any man, that was dwelling or abiding wythin the limits and boundes of the Forrest, to liue wythout the daunger thereof. And in this state  
the

the same continued untill the seauenteenth yeare of the raigne of the foresaid king Iohn, which was in the yeare of our Lord, one thousand two hundred and fiftene, at which time, because that this thing was then no particular grieffe to any one man alone, or, to a smal number of men, nor yet vnto the meaneest persons, but euen a generall grieffe and mischiefe vnto the whole Communalitie of this land: By reason whereof, diuers Lordes and Noble men, together with certein Gentlemen of great account, finding a meete oportunitie of time, offered to effect such a matter, yea, euen when they might, as it were, assure themselves that the king would not denie them their suit, made their repaire to the king, and earnestly besought this king Iohn, to graunt them, that they might haue all those new afforestations, that were so afforrested by king Henry the second his father, king Richard the first his brother, or, by king Iohn himselfe, disafforrested againe: and also, that he would likewise graunt and confirme vnto them, such liberties and priuiledges, concerning Forrestes, as they in certein Articles had already amongst themselves agreed vpon and set downe: All which thinges the sayd king Iohn at the first seemed not vntwilling to graunt, but promised them that he would graunt the same accordingly: For obtayning whereof the Lordes, Noble men, and others, came wythin thre miles of Windsor, where king Iohn then lay, and there they pyched downe theyr Tentes in a meadow betwixt Stanes and Windsor, to which place king Iohn himselfe came the xv. day of June; in the eighteenth yeare of hys Raigne, and there shewed such friendly countenance towarde euery one of them, that they were then put in good hope, that the king ment no lesse towarde them, then he had before promised: At which time and place, after that the  
king

Hollenshed  
pag. 185. b.  
50. and 60.  
See Mathew  
Paris according to the  
same.



See the Records in the Tower in the time of king John accordingly.

See Rayne wulfe p. 186. 3. 10.

king had well weighed and considered of euery matter, and what thing was then meetest to be done in respect of that time, and intending thereby the rather greatly to strengthen his force against his enemies, by ioyning with the Barons and Noble men of this Realme, at the last he consented to subscribe and seale to such articles, concerning the liberties of the Forrest, which they then demanded, being for the most part in such sort, as the same is now contayned in Charta de Foresta, then beginning, Iohannes dei gratia &c. Rex &c. And the date of this Charter was in these wordes. Geuen by our owne hand in the meadow called Kuningsmede, or Ryme meade, between Stanes and Windfore, the xv. day of Iune, in the eighteenth yeare of our Raigne. At which time of graunting of the foresaid Charter, the king did not onely graunt vnto them, their whole request in euery thing touching the foresaid liberties: but also was contented, that they should choose out certein graue and honorable personages, which should haue aucthoritie and power to see those thinges performed, which he then graunted vnto them: Whereupon they named and made choise of diuers most worthy Earles, namely these, The Earles of Clare, Albemarle, Gloucester, Winchester, and Hereford: Also Earle Roger, Earle Robert, Earle Marshall the yonger, Robert Fitzwater the yonger, Sylbert de Clare, Eustice de vescy, Hugh Bygot, William de Howbray, The Maior of London, Gilbert de la Galle, Robert de Roos, John Constable of Chester, Richard de Percie, John fitz Robert, William Dallet, Geffrey de Say, Roger de Howbray, William de Huntingfield, Richard de Mountfychet, and William de Albenie: These fise and twentie were swozne to see the foresayd libertyes, so graunted and confirmed by the king, to be in euery point obserued: And as the Recordes of that time do declare, there were also

also diuers other most worthy Earles and Barons, (whose names were here to long to set downe) that were sworne to be assistants vnto these foresaid fīue and twenty Peeres, in such thinges, as they should appoynt, for the better accomplishing of the foresaid graunt. And furthermore, the King hereupon sent his Letters pattents vnto the Sheriffes of all the Counties of this Realme, commaunding them to see those Ordinaunces and Liberties, which he had so graunted and confirmed, to be diligently obserued and kept, yea and more then this, hee also procured the Pope to confirme the same. And yet for all this it so fell out, that befoze that anie disafforestation of those landes, so newly afforested by king Henrie the second, King Richard the first, or, by the same king Iohn, as aforesaid, were made, or any other great matter perfourmed, concerning these Liberties, which the King had graunted, this King Iohn died in Newarke Castell in Nottingham Shire. After whose decease, Henrie the third, beyng eldest Sonne of the foresaid king Iohn, and of the age of nine peeres, came to be King of this land in the yeere of our Lord, one thousand two hundred & sirteene, and this time still passed away from day to day, so that litle or nothing beyng yet done concerning the disafforestation of those foresaid new afforestations, which was the whole effect of the greatest matter then required to be put in Execution, vntill the ninth yeere of the Raigne of this king Henrie the third. And then this king Henrie, holding his Christmas at Westminster, called his high Court of Parliament there the same time, and demaunded a reliefe of money towarde the maintenance of his warres in Fraunce, and had graunted vnto him the fifteenth penie in value of all the moueable goods to be found within the Realme, aswel belonging to the Spiritualltie as Temporalltie, but yet vnder condition, that he should confirme vnto

his

An.dñi 1225.  
Anno regni  
Regis Hen.3.  
nono, at a p-  
liament at  
Westminster.  
See the Re-  
cords in the  
Tower, & in  
Raine Wolfe  
pag.207.a.  
30.a. 40.



See in the  
Tower in Ro-  
tulis peram-  
bulationū fo-  
restar in An.  
29.E.1.

Carta de Fo-  
resta artic. 1.

his subiects, their often demaunded liberties. And therfore in the Charter of the confirmation of the disafforestation of all those foresaid new afforestations, so graunted by the same king Henrie the third, this consideration is there set downe, viz. in consideration of a full fiftenth penie in value of all their moueable goods to be found within the Realme, aswel belöging to the Spiritualltie as to the temporalltie, So the king, desirous to haue the money, was contented to condescend vnto their requests, and so then the two Charters were made, and by the said king confirmed, The one, called Magna Carta, and the other, Carta de Foresta, and these two Charters, at this Parliament so made and confirmed, being so good lawes & lawdable ordināces, they haue from time to time beene confirmed by the kings and Princes of this Realme, so that a great part of the Lawes of this Realme, now at this day in vse, doth depend vpon the same. This king also caused these two Charters to be sent forth into euery Countie within this realme, to be published & proclaimed. And, whereas in the first Article of Carta de Foresta it is graunted in this manner, In primis omnes Forestæ, quas Henric⁹ auus noster afforestauit, videantur per bonos & legales homines, Et si Boscum aliquem alium, quā suum dominicū afforestauerit ad dampnum illius, cuius boscus ille fuerit, statim deafforestetur, & si Boscum suum propriū afforestauerit, remaneat Foresta, salua cōmunia de Herbagio, & alijs in eadem, illis, qui eam habere consueuerunt, All Forrests, which king Henry our grand father afforested and made, shalbe viewed by good & lawfull men, & if he haue made Forrest of any other mans woods or lands, more then of his owne demesne woods & lāds, wherby the owner of the same hath hurt, we will, that forth with it be disafforested, & if he haue made Forrest of no other mens woods or lāds but of his owne, then we will that it remaine Forrest still, sauing the cōmon of herbage & of

of other things in the same forest to the, which before were accustomed to haue the same. And also in the 3. Article, it is granted in this manner, Omnes autē Bosci, qui fuerūt afforestati p regem Richardum auunculum nrm, vel, p regem Ioh. patrem nrm, vsq; ad primā Coronationē nrām, statim deaforestentur, nisi sit dominic⁹ boscus noster: all woods & lāds, which haue bin afforested by king Richard our vnclē, or, by king Iohn our ffather, vnto the time of our first Coronation, shalbe forthwith disafforested, except the same be our owne demeasne woods and lands. And for the better accomplishing & performing of those 2. articles of Carta de Foresta, for the disafforestation of such woods & lands, as were so newly afforested by king H. the 2. king R. the 1. or, king Iohn, it was mozeouer decreed by the said king Henric the third, that, at a certaine day after Easter then next ensuyng, there should be an inquisition taken by the Inquest of a Substantiall Iurie, for the seuering of Forrests, the new from the old, so as all those grounds and woods, which had beene made Forrests since the daies of king Henric the graundfather of this king Henry the third, should bee disafforested: and thereupon, after Easter, Hugh de Nouile, and Bryan de Lyslee were sent forth as Commissioners to take those Inquisitions, by force whereof, many great woods and lands were not onely disafforested, but also asserted and improued to arrable land by the owners thereof. And so, not onely men, that then were dwellers and inhabitors in those places, but also Dogges, which for safegard of the game were accustomed before to lose their clawes, had good cause to reioice for these disafforestations and confirmed liberties so graunted, so that now after this Charter thus made and confirmed, some of these newe afforestations were perambulated, and after such Inquisitions taken, & the certenty knowne by matter of recoꝛd, what woods and lands, were so newly afforested

Carta de Foresta artic. 3.

Rayne Wolfe  
Pa. 207. a. 50

See in the  
Tower in the  
Rolles of the  
perambulations of  
Forrests made in  
the time of  
H. 3.

Rayne Wolfe  
Pa. 207. a. 50



by anie of those thre foresaid kings since the time of the first Coronation of King Henrie the second, they were disafforrested by King Henrie the third. But yet neuertheless, the greatest parte of those newe afforrestations were still remayning to be disafforrested during the lyfe of the said King Henrie the third, and then after his decease Edward the first, surnamed Longshanke, beyng the eldest Sonne of the foresaid King Henrie the third, succeeding his Father as next heyre vnto the Imperiall crowne of this Realme, beganne his Raigne the two and twentieth day of Nouember in the yeere of our Lord, one thousand two hundred seuentie and thre, which King, beyng oftentimes required and vrged, aswell by the Nobilitie, as also by the Communitie of this Realme, to confirme vnto them those foresaid Liberties, which his Father befoze had graunted, was contented to confirme their Charters, euen as they did require the same, and now, whē that they had all things graunted, perfozmed and confirmed as they could wish or desire, concerning the said two Charters, they deliuered the same so sealed signed and confirmed, vnto the Sheriffes of London that the same might be Read openly befoze the people, which thing was done accordingly in Paules Churchyard, in the presence of a great assembly, that were then there gathered together for that purpose. And hereupon presently after, the Lords and Commons of the Realme beganne to call vpon the King, that forthwith perambulations might be made of all those foresaid newe afforrestations, so that the same might thereby bee disafforrested, according to the first and third Articles of Carta de Foresta.

See the Records in the Tower in the time of king  
E. 1.

And thereupon, the perambulations of all such Forrestes, as were anie way enlarged by any newe afforrestation of King Henrie the second, King Richard the first, or King Iohn, were appoynted vnto thre Bishops,  
three

three Earles, and three Barons, and they, hauing com-  
mission from the king vnder the great seale of England,  
caused diuers perambulations of those new afforestationes  
to be made, and after such perambulations so made, and  
inquisitions taken, by good and sufficient men of the coun-  
trei, and returned into the kings Court of Chauncerie,  
whereby the king was ascertayned, what woods and lands  
were auncient Forrestes before any such new afforesta-  
tion, and what woods and landes were newly affore-  
sted, the king then caused all those, that were auncient For-  
restes, to be meered and bounded with vnremoueable  
Markes, Heeres, and Boundaries, to be knowne by mat-  
ter of Record for euer afterwarde, by reason that the  
same was so retozned into the kings Court of Chauncery.  
And also, those woods and landes, that were so newly affor-  
rested by any of those three kings aforesaid, the king cau-  
sed them to be seuered from the old, and to be retozned in-  
to his Court of Chancery by Markes, Heeres, and Boun-  
daries, to be knownen by matter of Record likewise for  
euer afterwarde. And after all this done, to the intent  
that perpetuall memorie might remaine, what woods and  
lands were auncient Forrests, which were meant to con-  
tinue Forrests still, and also what woods and lands were  
newly so afforested by any of these kings aforesaid, and  
which by these perambulations were seuered from the  
Old to the intent to be disafforested, the King, by his let-  
ters Patents vnder the great Seale of England, reciting  
the perambulations, as they were made and retozned in-  
to the Kings Court of Chauncerie, of all such new affor-  
restations, by such Markes, Heeres, and Boundaries, as  
they were then there retozned and certified of Record,  
did thereby graunt and confirme the same, and that all  
such newe afforestationes, as were by those perambula-  
tions and inquisitions seuered from the Old to be disaffor-  
rested,

Rayne Wolfe  
pa. 308. b. 10  
20.



rested, should so remayne and be disafforrested for ever : And also, that all those woods and landes that were ancient Forrests befoze any such newe afforestation, should likewise by such Markes, Heres, and Boundaries, as they were then retorned and certified of Record, remaine and continew Forrests still. And to the end, that the manner of the doing thereof may the better be understood and perceived, I haue here set downe two perfect Presidents thereof, the one for the Forrest of Waltham : the other for the Forrest of Windfore, which are, as follow.

Essex.

Anno vicefimo nono E. 1.

Vide cest perambulacio in le Tower de London,

*Edwardus, dei gratia Rex Anglia, dominus Hibernie, & Dux Aquitania, omnibus, ad quos presentes litera peruenierint, Salutem. Sciatis, quod, cum Communitas Regni nostri nobis concesserit Quintamdecimam omnium bonorum suorum mobilium, qua habebunt in festo Sancti Michaelis proximo futuro, extunc taxandorum, qua quidem quintadecima post huiusmodi taxationem colligi debet leuari & fideliter nobis solui, volumus & concedimus pro nobis & heredibus nostris, quod perambulationes factae, coram dilecto & fideli nostro Radó de Hengham & socijs suis ad hoc assignatis, per praeceptum nostrum, de Forestis nostris in Comitatu Essex, de cetero teneantur & obseruentur per metas & bundas contentas in eisdem perambulationibus, quarum tenor de verbo ad verbum sequitur in hunc modum :*

*II. Perambulatio Forestae in Comitatu Essex, facta apud Chelmerford, Die veneris in Craftino Ascensionis domini, Anno Regni Regis Edwardi filij Regis Henrici vicesimo octauo, coram dominis Radó de Hengham, Wilhelmo Trossell, Stephano de Grauesend, & Wilhelmo de Sutton, Iusticiarijs domini Regis ad dictam perambulationem faciendam assignatis, videlicet, per dominos Robertum de Sancto Claro, Hugonem le Blunde, Thomam de Maundeuill, Walterum le Baude, Wilhelmum de Hanningfield, Johannem Heron, Raduñ de Hemeuhale, Wilhelmum*

helmum de Horkeley, Iohannem de Preers, Iohannem de Sutton, milites, Iohannē Dowe, Iohānem Malegraffe, Mathæum de Branketree, Sewallum de Waleton, Edmundum de Badewe, Richardum de Clouill, Rogerum Bokscyn, Richardū le Dukes, Robertū le Waleis, Thomam de Septem fontibus, Warinū Code, Wilhelmū de la Rokele, Iohānem de Slamondeshey, Lucam Morell, & Thomam de Vlting, Iuratos, qui incepterunt prædictam perambulationem die prædicto, ad pontem de Stratford vocatū le Bowe, sub quo currit Ripa de Luye, & sic eundo in hundred' de Becontree per Regiam viam vsque Hyleford, & de Hyleforde directè per eandem viam Regiam, quæ ducit versus Romford, vsque ad quandam crucem sitam ad caput cuiusdam venelle vocatæ Wytheslane in villa de Haueringe, & ab illa cruce retornando versus Austrum per hayam, quæ est diuisa inter terram Gilberti Godebold de feodo Abbatisse de Barkeing, & terram Iohannis Atte Withe de feodo de Hauering, quæ haya est diuisa inter villas de Hauering & Dakenham, & sic per illam hayam vsque ad fossatum Iohannis le Franssch & Agnetis Atte Wythe de Dakenham, & ab illo fossato vsque ad Regiam viam quæ ducit de Ylesford vsque ad monasterium cornutum, sicut quedam aqua decurrit ex transuerso eiusdem viæ, quæ aqua vocatur Wythedenbroke, & est diuisa inter Hauering & Dakenham. Et ab illa aqua vsque ad quendam locum vocatum la Berwe, cum tota pecia terræ, in qua prædictus locus vocatus la Berwe existit, sicut diuisa se extendit inter villas de Hauering & Dakenham vsque ad quendam cursum aquæ vocatum la Borne, quæ aqua decurrit de quodam fonte vocato Hauering Welle vsque ad quendam locum vocatum Dakenhambeem, & ab illo loco vsque ad filum aquæ de Tamise, per quoddam fossatum vocatū marke dike, inter Hauering & Dakenham.



Et sic per Tamisiam vsque ad fletum vocatum Wade-flet, extendens se vsq; ad quendam pontem vocatū Reynham-beem, quod fletū diuidit villas de Hauering & Reynham in hundred' de Chafford, & ab illo pōte vocato Reynhābeem directē vsque ad pontem vocatū Dellebregge, sicut aqua decurrit, quæ est diuisa inter hundred' de Becontree & Chafford, & ab eodem ponte vsque ad quendam alium pontem vocatum Weldebornebregge semp per riuulum qui diuidit villas de Hauering & Welde Abbatis, & ab illo ponte per eundem riuulum vsque ad quendam diuisam vocatam Markethorn, quæ diuidit villas de Haueringwelle Abbatis & Nastoke in hundred' de Aungre, & sic in hundred' de Bekentree remaneant integre in Foresta villæ de Hauering cum suis appendicijs, Wansteed, Leyton, Welcomestow, & Woodford. Et villæ de Stratford in Westhamme, Estham, Hyleford parua, Berking & Dakenham pro parte remanent extra Forestam, & pro parte remanent in Foresta, prout superius per metas & bundas plenius diuiduntur. Et sic eundo a prædicta diuisa de Markethorn semper per prædictum riuulum vsque ad domum Roberti le Tanour de Nastock in hundred' de Aungre, & ab illa domo vsque ad mesuagium Wilhelmi filij Hugonis de Nastock, Et sic deinde ad Hesia, directē sicutitur ad domum Edmundi de Nastock, Et ab illa Hesia vsque ad mesuagium quondam Henrici de Wikham de eadem, & ab illo mesuagio vsque ad quendam locum vocatum le Frithstigele in eadem, & ab illo loco vsque ad terram Iohannis de Stodley, & ab illa terra vsque ad Ripam Talliatam, & sic semper per eandem Ripam vsque ad pontem vocatum Pyssingfordbregge per mediam Ripam, Et a dicto ponte per mediā Ripam vsque ad quendam pontem vocatum Affebregge, & ab illo ponte eundo directē vsque ad Ecclesiam de Theydonboys,

&

& ab eadem Ecclesia vsq; ad mesuagium Iohannis de Ruselep ex opposito mesuagio Rectoris ecclesie de Theydonboys, Et ab illo loco retornando per costeram Bosci dicti Rectoris, & Gilberti de Theyden, vsque ad mesuagium eiusdem Gilberti, & a dicto mesuagio alias retornando per Hayam dicti Gilberti, vsque ad mesuagium Iohannis Sprige, Et sic ab illo mesuagio per venellam iacentem ante mesuagium predictum vocatum Sprigesslane, vsque ad domum Rogeri Atteffrythe, Et ab illa domo directe ad domum Wilhelmi Le Gardener in eadem villa sitam super costeram de Eppinghath, & ab illa domo retornando per diuisam, que diuidit dimidium Hundred' de Waltham, & Hundred' de Aungre, directe vsque ad caput Bosci vocatum vetus Wyntered. Et ab illo Bosco per Regiam viam, que est diuisa predictorum Hund' de Aungre & Waltham, extendentem ad Boscum vocatum Gernonneswood in villa de Theydon Garnon, Et ab illo Bosco vsque ad quercum vocatam Markooke que est diuisa inter Terras Abbatis de Waltham & Roberti filij Walteri & Wilhelmi Gernon, Et sic retornando per Regiam viam, que extendit inter Terras predictorum Abbatis de Waltham & Roberti filij Walteri, directe vsque ad locum vocatum Reodegate in villa de welde, & sic in Hundred' de Aungre remanent integre in Forresta, villæ de Loketon, Chigewell, Lamborn, & Stapleford Abbatis: Et villæ de Nastok & Theydon Boys, pro parte, remanent in Forresta, & pro parte extra Forrestam, prout superius per metas & boundas plenius diuiduntur. Et omnes residue ville in Hundred' de Aungre predicto debent remanere extra Forrestam: Totum dimid' Hundred' de Waltham remanet integre in Forresta, & nichill excipitur: Totum dimid' Hundred' de Harlawe remanet extra Forrestam, preter villatam de Hatfeld Regis cum suis appendicijs, que integre remanet in Foresta, eo quod est de antiquo dñico domini Regis, simul cum Hamletto, vocato



La walle, & Bosco vocato Monekenwod cum suis pertinen-  
encijs: Totum hundred' de Chelmsford remanet extra Fo-  
restam, preter villatam de Writtel, que integre remanet in  
Foresta cum suis appendicijs, eo quod est de antiquo dñico  
domini Regis: Item incipiendū est apud Colecest'r ad pon-  
tem vocatum Northbregge, eundo p regiam viam ducen-  
tem ad quandā crucem vocatā Mylandecronche sitam sup  
caput cuiusdam Bruere vocatum Kingeswodeheth, & sic  
deinde ante mesuagiū Ricardi Martyn, vsq; ad quandā He-  
siam ante mesuagium W. Waryn de Colecest'r, & sic eun-  
do per fossatū dicte Bruere vsq; ad quandā placeam voca-  
tam Kingeswod hach, que est diuisa inter villatā de Horke-  
ley & Kingeswod heth, Et sic directe per fossatū Phī Atte  
hache vsq; ad mesuagiū W. Le Herde de Horkeley quon-  
dam Edmundi Atte hache, & sic per quoddam fossatum ex-  
tendens inter Horkeley & Kingeswod vsq; ad quandam di-  
uisam, que diuidit villam de Horkeley Bexsted & Kinges-  
wod, Et ab illa diuisa per quoddam fossatū, q diuidit Bex-  
sted & Kingeswod, vsque ad quandā aliam diuisam que di-  
uidit Boscum Radi de Bexsted & Boscum I. Le Breton, Et  
sic eundo per fossatum q diuidit Kingeswod & Boscū pred'  
I. Le Breton vsq; ad fossatum parci de Lengham, Et sic per  
pred' fossatum vsq; ad locum vocatum Kingeswodebregge  
ad costeram dicti parci, & sic retornando per regiam viam,  
que ducit versus Colecest'r, vsque ad pontem vocatum Est-  
bregge, Et a dicto ponte de Estbregge, vsque ad quandam  
portam Colecest'r vocatā Estgate cum tota pred' villa Co-  
lecest'r infra muros cum omnib' dñicis domini regis ad cas-  
trum suū Colecest'r spectantibus: Et sic in hundred' de Lex-  
eden, remanet integre in Foresta, villa de Myland' cum bos-  
co de Kingeswode cum suis appendicijs. Et dicunt etiam, q  
hundred' de Westhodeleford, Esthodeleford, dimid' hūdre-  
de Frosschewell, & dimid' hundred' de Clauering sunt inte-  
gre extra Forestā, & fuerunt a tempore quo non exstat me-  
moria.

moriamur. Item dicunt, quod hundred' de Dunmowe, Hengeford, & Laxeden, ex parte Boreali de la Stanstreet que ducit de Storteford vsq; Colecestf, sunt extra Forestā de perquisito Albricij quondam comitis Oxon. Item dicunt, quod id quod est ex parte australi de dicta Stanstreete in pred' hundred' de Dunmowe, Laxeden, & Hengeford, debet remanere extra Forestam, preter id quod superius nominatur in hundred' de Laxeden in villa de Colecestf, Et preter villam de Felstede cum Bosco de Blakholehey cum suis pertinentijs in hundred' de Hengeford, quod quidem manerium de Felstede cum Bosco de Blakholehey pred' cum pertinentijs Abbatissa de Cadamo tenet de dono W. Regis conquestoris Anglie, & tenere clamat adeo libere, sicut ijdem manerium & Boscus tenebantur tempore Sci E. regis Anglie, sed nichilominus dicimus quod pred' manerium cum pred' bosco cum suis appendicijs integre remanere debent in Foresta, Item dicunt quod hundred' de Tendrynge & Rocheford integre sunt extra Forestā, & fuerunt a tempore quo non exstat memoria: Item dicunt quod hundred' de Chafford, Berdestable, Danuseye, & dimid' hūdrede de wytham, dimid' hund' de Thurstaple, & dimid' hundred' de Wenestf totaliter debent esse extra forestam secundum tenorem Magne Carte de Foresta, eo quod afforestata fuerunt post Coronationem domini H. regis Aui domini H. Regis patris domini Edwardi regis nunc, et per reges R. & I. Quæ quidem perambulatio, prescripta, adeo aperte & euidenter facta est, secundum intellectū, & sanas consciencias nostras, vt didicimus per Antecessores nostros, Et sacramentū proborum militū & virorum antiquorū fidedignorum nunc supsistenciū & premeditanciū propter diuturnitatem temporis elapsi, adeo longā, cuiuscunq; alterius perambulationis in corā Essex facte, & melius ac plenius sup perambulatione pred' desideraremus certiorari tam pro statu domini Regis quā populi sui, Si idem dominus Rex euidentias aliquas apertas, si quas habuerit, nobis, vt ceteris de:



de regno suo infra limites Foreste sue existentibus per consilium suum in ultimo perliamento suo apud West' promissit & concessit, demandasse placuisset. In cuius rei testimonium, huic presenti perambulacoi, nos pred' Iur, sigilla nostra apposuimus, datum apud Chelmsford die & Anno supradictis, Ita quod, quicquid per istas perambulationes ponitur extra Forrestam, remaneat extra Forrestam, & residuum remaneat Foresta secundum metas & boundas pred' imperpetuum. *In cuius rei testimonium has literas nostras fieri fecimus patentes. Teste me ipso apud Lincoln, quartodecimo die Februarij, Anno Regni nostri vicesimo nono.*

Surrey.

Icy comence le proces de la puraley de Winsor, fait en le Countie de Surrey, au Parliament tresnoble seignior nostre Seignior le Roy Edward. 3. apres le conquest, summons & tenus a Westm. Ian de son Reigne premier.

Au quel parlement, al complaint des Prelats, comites, Barons, & la comunaltie del Royalme, fait au Roy, que les purales, en temps treshonorable Roy Edward aiel nostre seignior le Roy Edward quozest, grauntus & confirmes, ne furent mye gardes: & auscuns puraleys en diuers forrestes nient faites remistrent a faire en temps le Roy Edward pere nostre seignior le Roy quozest: nostre seignior le Roy, a lour priere, graunta, que les puraleys deuaunt faits, grauntus, & confirmes, desore en auant fussent tenus & gardes, Et que les purales, qui remistrent a faire, per ses feaux & leaux a ceo assignes, fussent faits a plus en haste, come les porrent tonement faire, & come les fussent faits, & en la Chauncellerie retoznes, & per certaine bounds & metes, que les confirmeret per la Chartre pur luy & pur les heires a garder & a tenir a tous iours: Et nostre seignior le Roy, de ceste sa bon volunte, en parlement fait & graunta en Chescun countie dengleterre la Charter a eur, qui boylent sure que messr en auant: Per que la comunaltie de countie de Surry, qui se senti greue en la dit forrest de Winsor

Windsor deins laundes del dit countie de Surry auantdit, sui dauoir la dit Charter nostre seignior le Roy a seale, & auoyent, tesmonfant la volunte auantdite, come plus pleinement est contenu per exemplificacon de la dit charter, la quel demoozt en labze de Certesey a garder.

Edwardus, dei gratia Rex Anglie, dominus Hibernie, & dux Aquitaniae, omnibus, ad quos presentes literae peruenierint, salutem: Sciatis, quod, cum celebris memorie Dominus E. quondam Rex Anglie, Auus noster, dudum fideles suos assignari ad perambulationes in Forestis suis, tam citra Trentam quam ultra, faciendi, & postmodum, quasdam perambulationes in aliquibus Forestarum illarum sub certis metis & bundis in eisdem contenti, factas, & retornatas, per litteras suas patentes pro se & heredibus suis concessiss. & confirmasset, ceteraque precepisset per praedictas metas & bundas imperpetuum obseruari, perambulationibus huiusmodi tempore dicti Aui nostri in aliquibus forestis remanentibus faciendi, ac Dominus Ed. nuper Rex Anglie pater noster in Parlamento suo nuper apud Lincoln conuocato ad supplicationem prelatorum, comitum, Baronum, & comunitatis regni sui, asserentium dictas perambulationes factas, obseruatas non fuisse iuxta concessionem & confirmationem praedictas, Et perambulationes huiusmodi alibi factas non fuisse, per litteras suas patentes, quinto die Augusti, Anno Regni sui decimo, concesserit pro se & heredibus suis, quod perambulationes praedictae, per dictum auum nostrum concessae & confirmatae, sicut praedictum est, sub metis & bundis in dictis litteris patentibus ipsius Aui nostri contenti & specificati, teneantur & imperpetuum obseruarentur, promittens quod fideles suos ad perambulationes in forestis, in quibus tunc factae non fuerunt, faciendi assignari faceret: Ita quod perambulationes ille fierent ante festum natalium domini tunc proximum futurum, & quod perambulationes illas, cum factae fuissent, & retornate, per  
litteras



litteras suas patentes, quas in eisdem continget contineri, pro se & hered' suis confirmaret, prout in his litteris patent' ipsius patris nostri super hoc confectis plenius continetur, Ac etiam insinuatione prelatorum, comit', Baron', & totius coitatis Regni nostri in instanti parlamento nostro apud West' conuocato accepimus, quod, tempore dicti patris nostri, perambulationes pred' per dictum auum nostrum, vt premittitur, concessit & confirmate, non fuerunt obseruate, & quod perambulationes huiusmodi non facte, remanserunt faciend', per quod nobis cum instantia supplicarunt, vt perambulationes, per dictum Auum nostrum, vt premittitur, concessas & confirmatas, confirmare & ratificare velimus, Ac etiam perambulationes, que nondum facte sunt, fieri faceremus indilate, Nos eorum supplicationi in hac parte fauorabiliter annuentes, concedimus pro nobis & hered' nostris, quod perambulationes pred' per prefatum Auum nostrum concessit & confirmate, sub metis & bundis in dictis litteris ipsius Aui nostri contentis & specificatis, teneantur & imperpetuum obseruentur: Et volumus quod perambulationes, quae in aliquibus Forestis adhuc restant faciend', per fideles nostros ad hoc assignandi fiant, sub ea celeritate, qua fieri poterunt, bono modo: Quas quidem perambulationes, cum factae fuerint & nobis retornate sub metis & bundis quas in eisdem inueniri contigerit, per litteras nostras patentes pro nobis & hered' nostris confirmari & approbari faciemus. In cuius rei testimonium, has litteras nostras fieri fecimus patentes. Teste me ipso apud West' xxiiij. die Marcij, Anno Regni nostri primo.

Per ipsum Regem & Cons.

Puis apres, la dit comminaultie de countie de Surry, que se senty greue, de ceo que la purale, ne fust pas fait en la Forest de Windsor, en le dit countie de Surry, en temps le Roy Edward aiel nostre seignior le Roy E. quozest, ne, en temps le Roy Edward son piere, ne vncore remist a faire, &

a Chiualer, la dit comminallie per vertue de la Charter nostre seignour le Roy, come plus pleignement est contenu en la dit puraley qui ensuit.

Edwardus, dei gratia rex Anglie, dominus Hibernie, & dux Aquit, dilectis & fidelibus suis Tho. Tregori, Iohanni de Stonore, Iohanni de Ifeld, & Iohanni Dabnoum, salutem. Sciatis, quod, cum in parlamento nostro apud West' conuocato, per Prelatos, Comites, Barones, & communitatem regni nostri asserentes, quod fuisset supplicatum, ut nos eas sic factas per dictum auum nostrum concessas & confirmatas, easdem concessionem & confirmationem in omnibus obseruari, & in forestis, vbi dictæ perambulationes remanēt faciend', eas fieri & factas in forma præd' confirm curaremus, assignauimus vos duos & tres vestri, quorum vos prefat' I. de Stonor vnum esse volumus, custodē Forestæ nostræ citra Trentam, vel ipsum quem posuerit loco suo, & omnes Forestas de feodo, & viridas forestar' nostr' in com' Surry, ad perambulationē rectam per visum trium vel duorum vestrū, quorum vos prefat' I. de Stonore vnum esse volumus, & illorum in forestis nostris in eodē com', in quibus dictæ perambulationes tempore dicti Aui nostri facte non fuerunt, per Sacrum tam militum quā aliorū proborum & legalium hominum de eodem com', per quos rei veritas melius sciri, & perambulationes ille fieri poterunt, faciend', iuxta tenorē Carte domini H. quondā regis Anglie proau' nostri de Foresta, & ideo vobis mandamus, quod ad certos dies & loca, quos vos tres, vel duo vestrum, quorū vos prefat' I. de Stonore vnum esse volumus, ad hoc prouidentes, premissa faciatis in forma præd', Ita quod perambulationes præd' fiant & nobis retornentur citra festū natalis domini proximo futurū. Mandauimus enim vic. nostro com' præd' qd' ad certos dies & loca, quos vos tres vel duo vestri, quorum vos prefat' I. de Stonor vnu esse volum', ei scire faciatis, venire faciat coram vobis



vobis, tribus, vel duobus vestrum, quorum vos prefatum Iohannem de Stonore vnum esse volumus, tot & tales, tam milites, quam alios probos & legales homines de com̃ pred', per quos rei veritas melius sciri, & perambulationes pred' fieri poterint, sicut predictum est, Et perambulationem illam distincte & aperte sic factam, nobis sub sigillis vestris, trium, vel duorum vestrum, quorum vos prefat Iohannem de Stonore vnum esse volumus, & sigillis eorum, per quos facta fuerint, reportetis ante festum supradictum, vt eam confirmemus iuxta concessionem nostram dictis magnatibus inde factam. In cuius rei testimonium, has literas nostras fieri fecimus patentes. Teste me ipso apud West' xx. die Marcij, Anno Regni nostri primo.

Per ipsum regem & Cons.

Et pur ceo que la dit commission eut fait mention, que le vic. de Surry seit venir, deuant les Justices a certaine iour & lieu per eux assignes, bones & loyaux Chiualors & autres del dit countie pur la dit purale faire, nostre seigneur le Roy, hors de la Chauncellery maunda son bziefe al dit viscount de Surry, en garrant de la dit Chose faire come plus pleinement est contenu en la dit bziefe, que ensuit.

Edwardus, dei gratia, rex Anglie, dominus Hibernie, & dux Aquit', vicec. Surry Salut': Sciatis, quod, cum in parlamento nostro nuper apud West' conuocato, per prefatos comites, Barones, & communitatem regni nostri asserentes, quod perambulationes tempore domini E. quondam regis Anglie Aui nostri, in forestis suis tam citra Trentam quam vltra facta, non fuerunt obseruate, nobis fuisset supplicatum, vt nos eas sic factas per dictum Auum nostrum concessas & confirmatas, iuxta easdem concessionem & confirmationem in omnibus obseruari, & in forestis, vbi dicte perambulationes remanent faciend', eas fieri, & factas

in

in forma præd' confirmari curaremus, assignauim' dilectos & fideles nros Tho. Tregor', Iohannem de Stonore, Iohannē de Ifeld, Iohannē Dabnon, tres vel duos eorum, quorū præf' Iohannē de Stonore vnum esse volum', ad conuocand' in præsentia eorundē Tho. Iohānis, Iohānis, & Iohānis, triū vel duorū eorum, quorum præf' Iohannē de Stonore vnum esse volum', custodē forestę nræ citra Trentā, vel ipm quem posuerit loco suo, & oēs forestas de feodo, & viridas forestas nostrarum in com' Surf, ad pambulac' rectam, p visum eorum, vel duorū eorum, quorum præfatum Iohannem de Stonore vnum esse volum', in forestis nrīs in com' pd', in quib' pambulationes tēpore dicti aui nrī fact' non fuerunt, p faciem tā militum q̄ aliorum pborum & legalium hominum de com' tuo, per quos rei veritas melius sciri, & pambulac' ille fieri poterint, faciend' iuxta tenorem Cartæ dñi Henr quondam regis Angliæ proauī nostri de foresta. Et ideo tibi præcipim', quod ad certos dies & loca, quos ijdem Thomas, Iohannes, Iohannes, & Iohannes, tres vel duo eorum, quorū Iohannē de Stonore vnum esse volumus, tibi sciri faciant, venire faciatis coram eis, tribus, vel duob' eorum, quorum præfatum Iohannem de Stonore vnum esse volumus, tot, & tales, tam milites, quam alios probos & legales homines de com' prædict', per quos rei veritas melius sciri, & perambulationes præd' fieri poterint, sicut prædictum est, & habeas ibi hoc breue, Teste me ipso apud Westm̄ xx. die Martij, Anno regni nostri primo.

Per ipsum Regem & cons.

Et pur ceo q̄ la dit Cōmission voloit, q̄ les Justices nre scignior le Roy facent appeller a eux, le gardeine de la Forrest citra Trent, ou son Lieutenāt, a la purale faire droitur elint, p vertue de ceo Cōmission les dits Justices maunde-  
ront leur brieſe au dit gardeine, ou a son Lieutenant, quilz fuissent a certain iour & lieu, ou le dit b're limit, ensembleint ouesq̄ eux, a la dit chose faire, solongq̄ ceo q̄ plus pleignerit

U

est



est contenu en le dit briefe, que ensuit.

Thomas Tregor, Iohannes de Stonore, Iohannes de I-feld, & Iohannes Dabnon, custod' forestæ dñi nři Regis ci-tra Trentam, & eius locum teneñ in Coñ Surr, salutem, cū in Parlamento dñi nři Regis nup apud Westm conuocat, per prelatos, Comites, Barones, & cōmunitatem regni asse-rentes q perambulationes tempore dicti Edw. quondam Regis Angliæ aui sui, in forestis suis tam citra Trentam quā ultra factæ, non fuerunt obseruat, Et eidem domino Regi supplicatum fuisset, vt ipse eas sic factas per dictum auum suum concessas & confirmatas, iuxta easdem concessionem & confirmationem in omnibus obseruari, & in forestis, vbi dictæ perambulationes remanent faciend', eas fieri, & fa-ctas in forma prædicta confirmari curaret. Idem dominus noster rex assignauit nos tres & duos nostrum, quorum Io-hannem de Stonore vnum esse vult, ad conuocand' in præ-sentia nostrū, trium, vel duorum nostrum, quorum Iohannē de Stonore vnū esse vult, custodem forestæ suæ citra Tren-tam, vel ipm, quem posuerit loco suo, & omnes forestas de feodo, & viridarios forestarum suarum in dicto Coñ Surr, ad perambulationem rectam per visum nostrum, trium, vel duorum nostrum, quorum Iohannē de Stonore vnum esse vult, & illorum in forestis suis in eodem Coñ, in quib' per-ambulationes tempore dicti aui sui factæ non fuerunt, per sacramentum tam militum quam aliorum proborum & le-galiū hominum de eodē Coñ, per quos rei veritas melius sciri, & perambulationes ille fieri poterint, faciend' iuxta tenorem Chartæ domini H. quondā Regis Angliæ, proauī sui, de Foresta: Et quia dominus Rex nobis mandauit, quod conuocari fac' custodem Forestæ suæ citra Trentam, vel ipsum, quem loco suo posuerit in dict' Coñ Surr, ad per-ambulac' rectam faciend', nos pretextu illius mandati as-signauimus diem essendi apud Certesiā, diem Lunæ pxi-mū post quindenam sancti Iohannis Baptiste, ad incipiend' de

de negotio supradict', ac perficiendum exinde ad dictam perambulationem faciendam, quem diem vobis signauimus, vt vos ad diem prædictum ibidem personaliter interfitis, vel ipse, quem loco vestro posueritis, ibidem interfuit, Ita quod dicta perambulatio per visum vestrum, nostrum, & aliorum ad hoc summi, recte fieri possit, secundum tenorem Cartæ domini H. quondam Regis Angliæ proau domini Regis de foresta.

Et ainsi par cèd que la Cômmission purporte, que les Forresters de fee, & les verderors de la Forrest auaunt dit, en la Countee de Surri, a la dit puraley faire, fussent al iour & lieu assigné, les dits Justices maunderent brieve de garnishment as dits ministres, quil fussent illong, & que eux feissent garnir les resciantes deins la Forrest auaunt dit en le dit Countee, en la quel la puraley, en temps le Roy Edward aiel nostre seigniour le Roy Edward quozest, ne fuit pas fait, ne chiuahe, ne quilz fussent illock a iour & lieu a Chiualer & a feire dreit & leise puraley come appeirt en le brieve que ensuit.

Thomas Tregor, Iohānes de Stonore, Iohānes de Ifeld, & Iohan. Dabnon, dilectis sibi forestar' de feodo, & vi. idar' forestæ domini Regis in Corn' Surri, salutem: Cum in parlamento domini regis apud Westm' conuocat, p prælatos, Comites, Barones, & Cômunitatē Regni assentent, q' pambulationes tēpore dñi Edwardi nuper regis Angliæ aui sui, in forestis suis tam citra Trentam quam ultra factæ, non fuerunt obseruatæ, & eidem dño supplicatum fuisset, vt ipse eas sic factas per dictum auum suum concessas & cōfirmatas, iuxta easdem concessionē & confirmationē in oibus obseruari, & in forestis vbi dictæ pambulac' remanēt faciēd', eas fieri, & factas in forma p'd' confirmari curaret, Idem dominus noster Rex assignauit nos, tres, vel duos, quorum Iohannem de Stonore vnum esse vult, ad conuocand' in præsentia nostra, triū vel duorum nostr', quorum Iohannem de



Stonore vnum esse vult, custodem Forestæ suæ citra Trentam, vel ipsum quē posuerit loco suo, & omnes Forestas de feodo, & viridas forestarū suarum in dicto Com̄ Sur̄, ad perambulationē rectam per visum n̄rum triū vel duorum nostrum, quorum Iohannē de Stonore vnum esse vult, & illorū, in forestis suis & in eodē Com̄, in quibus perambulac' dicti aui sui facte non fuerunt, p̄ sacramentū tam militum q̄ aliorum p̄borū & legalium hominum de eodē com̄, per quos rei veritas meli' sciri, & perambulac' ille fieri poterunt faciend' iuxta tenorem Chartæ dñi H. quondā regis Angliæ p̄pauī sui de foresta, & quia dñus noster nobis mādauit, qđ conuocari faceremus oēs forestas de feodo, & viridas forestarū suarum in dicto Com̄, ac etiā illos in forestis suis in eodē Com̄, in quib' perambulac' tempore dicti aui sui factæ non fuerunt, ad pambulac' rectam faciend', vobis mādāmus ex parte dñi n̄ri regis, qđ apud Certesiam die Lunæ p̄ximo post quindenā S. Iohannis Baptiste personaliter interfritis, ad p̄ficiend' exinde pambulac' illam faciend', ac etiam p̄munis fac' oēs illos in forestis dñi regis in eodem com̄ cōmōrātes, in quibus pambulac' tēpore dicti aui sui factæ nō fuerunt, quod tunc sint ibi ad diem p̄dict' exinde ad p̄ficiend' nobiscum, vt perambulac' illæ per visum illorum, nostrum, & vestrum, fieri posset competenter.

Et fait a scauoir, q̄ a dit iour assesse a Certesey, tous les Justices, & le vic de Sur̄, le Lieutenāt, le gardein de la forest citra Trent, foresters, Wderers, & auts resiants deins le bound de la forest, & bone gents & loiaur chiualers & auts ilibques lūm p̄ le dit viscoūt, vindrent, & les Just. seissent leur office, & p̄istrēt enquest de Chiualers & auters, cest est ascauoir Woulf, Henr̄ Hall, & W. de Wontfozch Chiualers, Rob. le Dol, Henr̄ de Sunnerbus, Will̄ Huse, John de Buresleisne, Nichol Bachiler, John Wobhoame, W. de Porke, John at Stoket, Robert de Dittone, John de Kingsnode, & les chargerent la dit enquest solong leur Commission.

Et p<sup>r</sup> Monsieur J. de Swinerton chivalier, Lieutenant, le gardeine de la Forrest n<sup>r</sup>e seignior le roy citra Trent, p<sup>r</sup> certaine Comission a luy fait illock monstre, allegea illock deuant les Juroz de la enquest pur le Roy, qui luy auoit vn enquest prise a Lamphethe, deuant certaine Justices en temps le roy Edward aiel n<sup>r</sup>e seignior le roy quozest, testmoignant q<sup>u</sup> cel lieu, le quel il furent entour de faire puraley, a cel temps remist forest per icel enquest, & pria as Juroz, quil fussent auises pur le Roy de cel inquest, quil mist auant en euidence pur le Roy, come appeirt per la copie de la dit enquest, qui ensuit.

Perambulatio facta in Com<sup>u</sup> Sur<sup>u</sup> de foresta de Windsor, die sabati proximo post festum S. Gregorij P. An. regni regis E. i 8. apud Lampheth, corā Rogero Brainson, Iohanne de Barwik, Radó de Hengham, Wilh. Inge, & Iohanne de Crokeffe, in p<sup>r</sup>sentia Phi de Say Cleric<sup>i</sup>, Iustic<sup>i</sup> forestæ, forestar<sup>u</sup>, viridar<sup>u</sup> forestæ p<sup>r</sup>dictæ, p<sup>r</sup> Sac<sup>r</sup>m Wilh. Anubefas, Iohānis de Bourstow, Wilh. de Bekewete milif, Rob. de Dob, Rob. de Valetton, Wil. de Northwood, Iohānis Prodhome, Rob. Artesond, Michel de Wistone, Ric<sup>i</sup> de Hortó, Edmūdi de Suteworth, & Iohānis de Farnhā: Qui dicunt p<sup>r</sup> sac<sup>r</sup>m suum, quod totus com<sup>u</sup> Sur<sup>u</sup> fuit foresta tempore H. Regis proau<sup>i</sup> Regis nunc, vnde idem Henricus obiit seistus, & ita remansit foresta vsque ad quartum diem Decembris, Anno regni regis Rich. i. Qui tunc deforestauit quandam partem ipsius comitatus per certas metas, quæ continentur in Charta ipsius regis inde facta, viz. inter Kanciam, & Aquam quæ dicitur Waye, & de monte de Guldedone, quantum Com<sup>u</sup> Sur<sup>u</sup> durat versus meridiem, & residium Com<sup>u</sup> p<sup>r</sup>ædicti, scilicet, incipiend<sup>u</sup> ad aquam de Waye per montem de Guldedone, quantum com<sup>u</sup> durat versus Aquilonē, remansit & est foresta, & post illius Chartæ confect<sup>u</sup>, nihil aforestatū vel occupatum fuit per ipsum regem Ric<sup>i</sup>, nec per regem Iohannē nec per aliquē alium: dicunt etiam

U 3

quod



quod non sciunt, quod aliquid de com̄ præd' afforestatum fuit p̄ prædict' Henr̄ proauum regis nunc. In cuius rei Testim̄ præd' Iura' sigilla sua apposuer̄.

Et la Cōmunaltie allegea en euidence pur eür enconter le Roy, que la puraley fuit fait en le dit Coūtie, en le temps le Roy Henr̄ besael le Roy q̄ ore est, issint q̄ tout le Countie de Surf fuit disafforest, & de ceo mistient auant vn copie de vn enquest de la dit puraley fait en la maner, q̄ ensuit.

Perambulatio facta in Com̄ Surf, per sacm̄ Iohannis de Walton, Gilberti Dabnour, Gilberti de Abingworth, Nic. Malemeyns, Hamonis de Gatton, Rob. de Watenill, Tho. de Hutmere, Walteri Outworth, Wilh. de Wanton, Wilh. de Insula, Iohannis de Mikelham, & Iohānis de Burstowne, Qui dicunt, apud Brudford sunt diuisi inter Bark. South. & Surf, & tunc diuise inter Berk. & Surf de Brudeford per viā quæ ducit de Fremeley apud Wishemere, & postea per crucem Rad, vsque Gomerichford per medium le Shete vsque ad Horton, & de Horton per la Lee versūs cursum aquæ, & inde iuxta aquam, quæ dicitur Sydeway, vsque ad Thornehul, de Thornehul vsque ad Harpessford, de Harpessford per aquam vsque ad Iuggfeld, & de Iuggfeld vsq; Loddertakehucche, vbi tres com̄ conueniunt, viz. Surf, Bark. & Buck. Et sic dicunt quod totus com̄ Surf fuit extra forestā, sicut diuise content̄ Suth. Berk. & Surf condonant die quo dominus Henr̄ filius R. Iohannis fuit Coronatus.

Dauter parte le Cōmunaltie mist auant pur eür en euidence, vn copie de vn Charter fait per vn abbe Alein, iadis Abbe de Certesey, & couent de mesme le lieu, al Roy Henr̄ Besael nostre seignior le Roy quore est, que les dits Abbe & couent granteront certaines terres al Roy Henr̄ ess̄ deins bound de forest, nient aresteant la puraley auant fait per le dit Roy Henr̄, come plus pleignement appeirt per la copie de la dit Charter, que ensuit.

Omnibus ad quos præsens scriptum peruenerit, Alanus  
abbas.

abbas de Chertsey, & eiusdem loci conuentus, salutem æternam in domino: Noueritis nos concessisse, quod, non obstante perambulatione facta per præceptum domini Henrici illustris Regis Angliæ, filij Regis Iohannis, de foresta de Windsor in Com̃ Surrey, omnes terræ & Bosci, & omnia tenementa contenta infra metas & diuisas subscriptas, remaneant ipsi domino Regi & Hered' suis, Foresta imperpetuum, viz. a ponte de Stanes per regium chimum, sicut se extendit per mediã villam de Egeham vsque Harpessford, & de Harpessford vsque la Knapp, & de la Knapp vsq; Loderlakeshack, vbi cadit in aquã Tamisiz, Ita quod oēs terræ & Bosci, & omnia tenementa, infra metas p̃d', & oēs homines manentes infra easdem metas, ex concessione ipsius dñi Regis erunt quieti de regardo, salua ipsi dño regi venatione sua. In cuius rei Testimonium, præsentis scripto sigill' nostrum duximus apponendum, hijs testibus domino S. Cantuariæ archiepiscopo, domino E. London, I. Bathon, H. Lincoln, R. Sarum, R. Dulon Cancellar' domini regis, R. Cicestriz, & W. Oxon Episcopis: H. de Burgo Iustic' domini R. Wilh. Marefchall', Rad. fil. Nich. Godfr. de Grancombe & multis alijs.

Et de ceo la Cõmunaltie mist copie de vn testification de certeine Chivalozs tesmoignants ceo, que labbe Allein de Certesey & son couent abient fait a Roy H. apres la dit purale fait, come appeirt per la copie que ensuit.

Omnib', ad quos p̃sens scriptũ puenerit, Gilbert' de Abingworth, Rob. de Wateuill, Wilh. de Insula, Nich. Maliciens, Iohannes de Milkenham, & Walter' de Cutteworth salutẽ in dño. Noueritis nos interfuisse & audiuisse, vbi Alan' Abbas de Certesey & eiusdẽ loci conuentus, cõcesserunt dño nro H. illustri regi Angl. fil. regis Iohannis, & cartã suam inde fecerunt, quod, nõ obstante pambulatione facta p̃ p̃ceptum ipsius dñi Regis de foresta de Windsor in com̃ Surri, oēs terræ & bosci, & omnia tenementa contenta infra



metas, & diuifas fubfcripti, remaneant ipfi domino Regi & heredi Foresta imperpetuum, viz. a ponte de Stanes per regium Chiam, ficut fe extendit per mediam villam de Egeham vfque Harpesford, & de Harpesford vfque la knapp, & de la knapp vfque Loderlake, vbi cadit in aquam Tamifie, Ita quod omnes terræ & Bosci & omnia tenementa infra metas predictas, & omnes Homines manentes infra eafdem metas, ex concessione ipsius Regis, erunt quieti imperpetuum de Regardo, falua ibidem ipfi domino Regi venatione fua. In cuius rei testimonium prefentiscripto figilla nostra duximus apponendū, hijs Testibus, S. Cantuari Archiepisc. domino E. London, I. Bathoni, H. Lincoln, Ro. Sarum, R. Duliū cancellarij domini Regis, R. Cicestren, & W. Exon. Episcopis, H. de burgo Iust' domini Regis, Wil. Mareschall, Rad'. fil. Nich. Godofr de Grancombe & multis alijs.

La quel puraley auant dit, chiuache en le temps d. ensemblement oue la Charter & testification auant dit, furent en la treasozie nostre seignior le Roy, & ces la fust la communalte prest a vouchier de record, si les Justices le Roy le voillent suffrer, & les Jurours charges per leur serement adire veritie sen alerent, & longe temps ensemble consaileront entre euz, & reuiendrent, & firent leur serement en la maner qui ensuit.

Qui dicunt per sacrum suum, quod tempore dicti Regis Edwardi aui domini Regis nunc, nulla perambulatio facta fuit in Forestis com de Surry, & dicunt quod perambulatio faciendū nunc in Forestis illis, inchoanda est apud Waymouth, & abinde semper in longitudine Tamifie vfque Loderlake shache, vbi tres com conueniunt, viz. Surry, Berk. & Buck. & abinde vfque orientalem corneram parci de Wyndsof, Et abinde vfque molendinum de Harpesford, Et abinde vfque Thornhull, Et abinde vfque Sydway, Et abinde vfque La Lec, Et sic vfque Horton, Et abinde per  
medium

medium Lashete vsque Gomerichessford, & abinde vsque Rolnescrouch, & abinde vsque Wishemoredene, & abinde vsque Brudeford, vbi tres cornu conueniunt, viz. Surri, Bark. & Suth. Et sic dicunt quod totus Cornu Surri est extra forestam, & fuit tempore regis H. proauis dñi regis nunc, sicut patet per quandam perambulationem factam tempore eiusdem regis H. secundum tenorem Chartæ regis H. de foresta: dicunt etiam, quod, tempore regis Edwardi aui dicti regis nunc, quedam inquisitio capta fuit apud Lampeth, coram Rogero Grauaſon, Iohanne de Berewike, Radó de Hengham, Wil. Iuge, & Iohanne de Crokeſſe per procurationem dñi Hug. le Despens. senioris hominibus cornu prædictum non præmunitis, exceptis quibusdam personis in inquisitione illa existentibus, vi & metu eiusdem Hugonis ad hoc ductis, ad bundas & metas in Forestis cornu prædictum faciendū, qui nullam perambulationem nec equitationem in Forestis illis fecerunt, nec bundas nec metas in eisdem posuerunt, in cuius rei testimonium &c.

Et pur ceo que cest enquest fuit mis auant le dit tour en euidence pur le Roy encoſiter la Cōmunaltie, & ceo la troue p cest enquest auant dit, les Justices ne oſoient aler auant, & chiuacher la dit puraley, ſolongs les bounds faits per les Juroys, ſans eſtre meints auises ou counsailes oue nre ſeignior le roy, mes assignerent iour ouſtre a Lieutenāt le gardeine de la fozeſt de ceo Trent, as Clerderoys de la fozeſt, as Juroys de lenquest, & as auters reſceants deins bounds de fozeſt illock eſteant, noſinement le Lundie en la feaſt ſeint Mathew procheine enſuant, a Weymuch, & quils fuſſet illock al dit iour, & al m temps les Justices ſe voilent auiser: a quel iour tous les Justices &c. Sir Tho. Cregoz vindrent, & les Jderers, & les Juroys de la enquest, & tous les reſceants deins bound de la fozeſt auantedit, mes le gardein de la fozeſt de ceo Trent, ne ſon Lieutenāt, ne nul des fozeſters, & qui iour auoient p pſictiō, ne vindrent point.

Et



Et al dit iour, la comminalltie de Surry mist abaunt brieſe noſtre ſeignior le Roy direct as Juſtices, que euz alaſſent abaunt a la puraley faire, nient arreſteant la enqueſt pꝛiſe en temps le Roy Edward, aiel noſtre ſeignior le Roy qui oꝛe eſt, Et come les furent retourns en la Chauncellarie, nient voillant noſtre Seignior le Roy, que execution de la dit puraley en ſoit fait, deuaunt ceo que lenqueſt fuſſet reſtoꝛne en Chauncellarie, & illok venu la, vn enqueſt & lauter, que adonk, dꝛoit & reaſon ent ſoit fait per le counſeill noſtre Seignior le Roy come plus pleignement appeirt per le brieſe qui eſt appele no obſtante, qui enſuit.

Edwardus, dei gratia, rex Anglie, dominus Hiberniz, & dux Aquit, dilectis & fidelibus ſuis, Thome Tregor, Iohanni de Stonore, Iohanni de Ifeld, & Iohanni Dubnon, ſalutem, cum nuper ad proſecutionem prelatorum, comitū Baronum, comunitatis regni noſtri nuper nobis in parlamento noſtro apud Weſt' conuocato ſuggeren', perambulationes tempore domini Edwardi quondam R. Anglie Aui noſtri in Forestis ſuis, tam citra Trentam quam vltra factas, obſeruatas non fuiſſe, & nobis ſupplicantium, vt nos eas per dictum auum noſtrum ſic factas conceſſas & confirmatas, iuxta eaſdem conceſſiones & confirmationes obſeruari in Forestis, vbi dict' perambulationes reſm, eas fieri, & factas in forma predicta confirmari curaremus, assignauimus vos tres & duos veſtrum, quorum vos preſat Iohannem de Stonore vnum eſſe volumus, ad conuocand' in preſentia veſtratrium vel duorum veſtrum, quorum preſat Iohannem de Stonore vnum eſſe volumus, cuſtodem Forestæ noſtræ vltra Trentam, vel ipſium quē ponere vellet loco ſuo, Et omnes Forestas de feod', & Viridas forestas noſtr' in com' Surry ad perambulationem rectam per viſum veſtrum, trium, vel duorum veſtrum, quorum vos preſat L. de Stonor vnum eſſe volumus, & ill' in Forestis noſtris in eodem com' in quibus perambulac. tempore dicti Aui noſtri factæ non fuer', per  
faciū

sacrū tam militum quam aliorum probor & leg' hominū de eodem com, per quos rei veritas melius sciri, & perambulationē illā fieri possunt, faciend' iuxta tenorem Chartæ domini H. quondam regis Anglie proavi nostri de Foresta, Et vobis mandamus, quod ad certos dies & loca, quæ vos tres & duo vestrum, quorum vos prefat' I. de Stonore vnum esse volumus, ad hoc prouideritis, præmissa faciatis in forma predicta, Ita quod perambulationes illæ pred' fierent, & nobis retorñ, citra festum natiuitatis domini, prout in litteris vestris patent inde vobis confect' plenius continetur, Ac etiam ex parte comunitatis com pred' accepimus, qd licet vos inquisic' super metis & bundis forestar in com predicto, pretextu assignac. nostre pred' feceritis, perambulationes tamen iuxta metas & bundas in inquisic. illa contentas, pretextu quarundem inquisic. tempore dicti Aui nostri de huiusmodi metis & bundis factas, vt dicitur, hucusque facere distulistis, & nobis sit supplicatum, vt super hoc remedium apponamus, Nos ea, que in dicto parlamento nostro sic concessa fuerunt, volentes executioni debitæ demandari, vobis mandamus quod, perambulationes in Forestis nostris in com predicto, iuxta formam assigni nostre præd', cum celeritate qua poteritis, faciatis, inquisic. tempore dicti Aui nostri inde, vt dicitur, factis non obstantibus, & easdem perambulationes sic factas, ad terminum pred', in Cancellaria nostra iuxta formam assigni nostre supra dictæ retorñ. Nolumus tamen quod perambulationes sic per nos faciend' executioni demandentur, antequā in Cancellaria nostra nobis retournarentur, & visis inquisic. tempore dicti Aui nostri sic capf, vltius inde fiat, qd de consilio nostro rationabiliter fore videbimus faciend'. Teste me ipso apud Stanhope, primo die Augusti, An. regni nostri primo.

Per vertue de quel byefe, les Clerderers de la Forest del countie auant dit, les Juroys de lenquest, & auters deins bound de Forest resceants, per beue des Justices nostre seignour.



Et al dit iour, la comminallie de Surry mist abaunt brieve nostre seigniour le Roy direct as Justices, que eur alassent abaunt a la puraley faire, nient arresteant la enquest prise en temps le Roy Edward, aiel nostre seigniour le Roy qui oze est, Et come les furent retourns en la Chauncellerie, nient voillant nostre Seignior le Roy, que execution de la dit puraley en soit fait, deuant ceo que lenquest fuisset retorne en Chauncellerie, & illok venu la, un enquest & l'auter, que adonk, droit & reason ent soit fait per le counseill nostre Seignior le Roy come plus pleignement appeirt per le brieve qui est appele no obstante, qui ensuit.

Edwardus, dei gratia, rex Anglie, dominus Hibernie, & dux Aquie, dilectis & fidelibus suis, Thome Tregor, Iohanni de Stonore, Iohanni de Ifeld, & Iohanni Dubnon, salutem, cum nuper ad prosecutionem prelatorum, comitum Baronum, conunitatis regni nostri nuper nobis in parlamento nostro apud West' conuocato suggeren', perambulationes tempore domini Edwardi quondam R. Anglie Aui nostri in Forestis suis, tam citra Trentam quam ultra factas, obseruatas non fuisse, & nobis supplicantium, vt nos eas per dictum auum nostrum sic factas concessas & confirmatas, iuxta easdem concessiones & confirmationes obseruari in Forestis, vbi dict' perambulationes rem, eas fieri, & factas in forma predicta confirmari curaremus, assignauimus vos tres & duos vestrum, quorum vos prefat Iohannem de Stonore vnum esse volumus, ad conuocand' in presentia vestra trium vel duorum vestrum, quorum prefat Iohannem de Stonore vnum esse volumus, custodem Forestæ nostræ ultra Trentam, vel ipsum quē ponere vellet loco suo, Et omnes Forestas de feod', & Viridas forestas nostras in com' Surry ad perambulationem rectam per visum vestrum, trium, vel duorum vestrum, quorum vos prefat I. de Stonor vnum esse volumus, & ill' in Forestis nostris in eodem com' in quibus perambulac. tempore dicti Aui nostri factæ non fuer, per  
sacm

sacri tam militum quam aliorum probor & leg' hominū de eodem com̃, per quos rei veritas melius sciri, & perambulationē illā fieri possunt, faciend' iuxta tenorem Chartæ domini H. quondam regis Anglie proavi nostri de Foresta, Er vobis mandamus, quod ad certos dies & loca, quæ vos tres & duo vestrum, quorum vos prefat' I. de Stonore vnum esse volumus, ad hoc prouideritis, præmissa faciatis in forma prædicta, Ita quod perambulationes illæ pred' fierent, & nobis retorñ, citra festum natiuitatis domini, prout in litteris vestris patent' inde vobis confect' plenius continetur, Ac etiam ex parte comunitatis com̃ pred' accepimus, qd licet vos inquisic' super metis & bundis forestar' in com̃ prædicto, prætextu assignac. nostræ pred' feceritis, perambulationes tamen iuxta metas & bundas in inquisic. illa contentas, pretextu quarundem inquisic. tempore dicti Aui nostri de huiusmodi metis & bundis factar', vt dicitur, hucusque facere distulistis, & nobis sit supplicatum, vt super hoc remedium apponamus, Nos ea, que in dicto parlamento nostro sic concessa fuerunt, volentes executioni debitæ demandari, vobis mandamus quod, perambulationes in Forestis nostris in com̃ prædicto, iuxta formam assigni nostræ præd', cum celeritate qua poteritis, faciatis, inquisic. tempore dicti Aui nostri inde, vt dicitur, factis non obstantibus, & easdem perambulationes sic factas, ad terminum pred', in Cancellaria nostra iuxta formam assigni nostræ supra dictæ retorñ. Nolumus tamen quod perambulationes sic per nos faciend' executioni demandentur, antequā in Cancellariā nostra nobis retorñarentur, & visis inquisic. tempore dicti Aui nostri sic cap't, vltorius inde fiat, qd de consilio nostro rationabiliter fore videbimus faciend'. Teste me ipso apud Stanhope, primo die Augusti, An. regni nostri primo.

Per vertue de quel byefe, les Clerderers de la Forest del countie auant dit, les Juroys de lenquest, & auters deins bound de Forest resceants, per beue des Justices nostre seignieur.



seignour le Roy, sans auoir regard al absence le gardeine de la Forest citra Trent ou de son Lieutenant, qui ne point viendroient al dit iour a eux assigne, alerunt auant a la pu- raley faire mesme le iour le luned en la feast seint Mathew auandit en la maner qui ensuit.

Videlicet, quod de Weymuth in longitudine Tamisie vsque Stanes bridge, Et abinde in longitudine Tamisie vs- que ad Lodershach vbitres com conueniunt, Surry, Bark. & Buk. Et abinde dimittendo com Bark. a dextra parte vs- que Stonihuldwell, & abinde vsque les Quelmes, & abinde vsque orientalem corneram parci de Wyndsof, & semper in longitudine palacij eiusdem parci vsque ad molendinum de Harpesford. Et abinde per eundem palaciū vsq; australem portam eiusdem parci, & abinde transmeando regiam viam vsque Wyndwyggshull, Et abinde vsque interiorem por- tam de Bromhall, Et abinde vsque Thornhull, Et abinde per viam quæ dicitur Sydway, in longitudine eiusdem viæ, & abinde vsque la Lee, Et sic vsque Horton, & abinde per medium la shete per Gomerichesford, quæ in antiquo tem- pore vocatur, Bachhetesford.

Et nient plus Chiuacherunt al dit iour, eyns demore- rent a Bachhete mesme la nuyt: Lendemain, le mardie en- suyant, chiuacherent auant de Gomerichesford, Et abinde vsque Roluescrouch, Et abinde declinando in dextra parte vsque Wyshmorfsden, & abinde vsque Brudefordesbrigge vbitres com conueniunt, videlc, Surry, Bark. South. Et les auant dit Iustices, en diuers lieux en la dit chiuache, firent la proclamacion solemnement, que nul ne fust cy hardie de chacer ou malfaire en le Forest auant dit per reason de icel chiuachy, tant il fust retorne a la Chauncerie & puis confirme per le Roy & son Counsaile. Puis apres les Iusti- ces faissent leur Recoꝝ de quant ils auoient fait de iour en auter, Solonque le tenure de leur commission a eux graunte a commencement, & ceo la retournerent desoubs leur seales

en le Chauncerie nostre seignour le Roy, longe temps de-  
uaunt le iour a eux done de retozne faire pur lour commissi-  
on, & la maner, come il retournerent, appeirt per la copie del  
dit Record, que ensuit.

*Perambulatio Foresta comitatus Surry, iuxta metas &  
bundas per inquisitionem captam coram Thoma Tregorr. Io. de  
Stonore, & Io. de Ifelde, & Io. Dabnon, ad perambulationem  
illam factam assignat, Anno regni regis Edwardi tertij a con-  
questo primo, postea per visum pred' Io. de Stonore, I. de Ifeld,  
& Io. Dabnon.*

*Dominus Rex mandauit Tho. Tregorr. Io. de Stonore, I.  
de Ifeld, & Io. Dabnon, breue suum in hac verba.*

Edwardus, dei gratia, Rex Anglie, dominus Hibernie,  
& dux Aquit, dilectis & fidelibus suis Tho. Tregori, Io-  
hanni de Stonore, Iohanni de Ifeld, & Iohanni Dabnon,  
Saltm, sciatis quod, cum in parlamento nostro nuper apud  
West' conuocati, per Prelatos, Comites, Barones, &  
comunitatem regni nostri, asserentes, quod perambulationes  
tempore domini E. quondam regis Anglie qui nostri in  
Forestis suis tam citra Trentam quam ultra facte, non fue-  
runt obseruati, nobis fuisset supplicatum, vt nos eas sic factas  
per dominum auum nostrum concessas, & confirmatas,  
iuxta easdem concessionem & confirmationem in omni-  
bus obseruari, Et in Forestis, vbi dictae perambulationes re-  
manent faciend' eas fieri, & factas in forma pred' confirmari  
curaremus, assignauimus vos, tres, & duos vestrum, quo-  
rum vos prefatum Iohannem de Stonore vnum esse volu-  
mus, ad conuocand' in presentia vestra, trium vel duorum  
vestrum, quorum vos prefati Iohannem de Stonore vnum  
esse volumus, custodem Forestae nostrae citra Trentam, vel  
ipsum, quem posuerit loco suo, & omnes forestarios de fe-  
odo, & Viridarios Forestarum nostrarum in com' Surry, ad  
perambulationem rectam per visum vestrum, trium vel du-  
orum vestrum, quorum vos prefati Iohannem de Stonore

VRUNT.



vnum esse volumus, & illorū in forestis nostris in eodem com̃, in quibus pambulationes dicti aui nostri factæ non fuerunt, per sacm̃ tam militum, quam aliorum proborū & legalium hominum de eodem com̃, per quos rei veritas melius sciri, & pambulationes ille fieri poterint, faciend' iuxta tenorem Chartæ domini H. quondā regis Anglie, proavi nostri, de Foresta: Et ideo vobis mandamus q̃, ad certos dies & loca, quos vos, tres vel duo vestrū, quorum vos prefat' I. de Stonor vnum esse volumus, ad hoc prouideritis, premissa faciatis in forma pred', ita quod perambulationes pred' fiant, & nobis retornent, citra festum natalis domini proximum futurū. Mandauimus enim vicec. nostrū com̃ pred', quod ad certos dies & loca quos vos, tres vel duo vestrum, quorum vos prefat' Iohannem de Stonore vnum esse volumus, ei sciri faciatis, venire faciat coram vobis, tribus vel duobus vestrum, quorum vos prefat' Iohannem de Stonore vnum esse volumus, tot & tales, tam milites, quam alios probos & legales homines de com̃ pred', per quos rei veritas melius sciri, & perambulationes pred' fieri poterunt, sicut pre. dictum est, & perambulationem illam distincte & aperte sic factam, nobis sub sigillis vestris, trium vel duorum vestrum, quorum prefatum Iohannem de Stonore, vnum esse volumus, & sigillis eorum, per quos factæ fuerint, reportetis ante festum supradictum, vt eam confirmemus iuxta concessionem nostram dictis magnatibus inde factam. In cuius rei testimonium has literas nostras fieri fecimus patentes. Teste meipso apud West' primo dei Marcij, Anno Regni nostri primo.

*Pretextu cuius Br̃s. prefati Thom. & socij sui mandauerunt vicec. Surry, quod venire faceret coram eis, tribus vel duobus eorum, apud Certeseyam, die Lune proximo post quindenam Sancti Iohannis Baptiste, quatuor & viginti tam milites quam alios probos & legales homines de comitatu pred', per quos rei veritas melius sciri, & perambulationes fieri poterint*  
*secundum*

*secundum formam brevis pred'. Et similiter significauerunt custod' Foresta citra Trentam, Et omnibus Forestarijs de feodo & Viridarijs Forestarum comitatus pred', diem pred', mandantes quod idem custos, vel alius, quem loco suo ponere voluerit, nec non Viridarij & Forestarij ex parte domini Regis tunc interessent ibidem, & ydem Viridarij premuniri facerent illos in Forestis comitat' pred' comorantes, in quibus perambul' tempore dicti regis aui domini regis nunc facta non fuerunt, qd. ibidem similiter interessent ad perambulatione rectam faciend' in forma pred': Postea ad diem illum in presentia pred' T. & sociorum suorum, Io. de Swynerton miles, quem Thomas Wake custos Foresta domini Regis citra Trentam per literas suas patentes loco suo posuit, venit, quas quidem litteras idem Iohannes pretendit ibidem in hec verba.*

*Thomas Wake, seignior de Lidel, Iustice de la Forest citra Trent, a tous iceur, q cest letter verront, salut. Sachez, nous auoir ordine & assigne nostre chiual, & bon amie, monsieur J. de Swynerton, nostre lieutenant p tout en les dits forrests, a faire tous choses qui appēdent en nostre nome en icels parties, q nous mesmes ne poions entendre, pur quoy nous vous mandems & chargems de part nre seignior le roy que al dit monsieur Jo. come a nostre lieutenant en les dits Forrestes, soies entendants & respoignants, en tesmoignance de quel chose al dit moult. John, nous auons fait faire ces lettres patentes, a durer a nostre volunte, done a nostre manour de Wyngge, le xx. iour dauerel, lan de Reigne nostre seignior le Roy E. le tiers apres la conquest pmiere.*

*Et Henricus de Stogton, Galfrat Donne, & Robertus de Immoworth, Viridarij Forestarum illarum veniunt, & testatum est per eosdem Viridarios, quod non est aliquis Forestarius de feodo in Forestis pred', alij tamen Forestarij, qui non sunt de feodo, scz. Robertus at Lake, & Robertus de Bifflete, & Thomas de Keneton veniunt, & similiter alij in Forestis predictis comorantes, sciz. Rowlandus de Wicford, R. de Trottesworth,*



Trottesworth, Ric. de Wyke, W. de Withwell, Robertus de Certeseye, Symon de Woodham, Thomas de Fremelesworth, Thomas de Hamme, Henricus de Bergh, Wil. de Brudnestone, Robertus de Kerwell, Gilbertus de Wythwell, Stephanus de Froilleburie, Robertus Myles, Thomas de Wonbourne, Iohannes de Watingford, Petrus Payne, Walter at Church de Basseligh veniunt, & vicec. Surry venire fecit Henricum Huse, & Henr de monte forti, milites, Robertum Le Dol, Henricum de Somerburie, Wilhelmum Huse, Iohannem de Bures seniore, Nicholaū Le Bachilleu, Iohannem Prodehome, Wil. de Porkle, Iohannem at Stoket, Robertum de Ditton, & Iohannem de Kingesnode Iur. Et postquam iidem iurati fuerunt ad veritatem super premissis dicendam, pred' Iohannes de Swynerton suggestit eisdem Iuraf, quod tempore regis E. aui domini regis nunc, capta fuit quedam Inquisitio de metis & bundis Forrestar com pred', coram quibusdam fidelibus ipsius R. ad inquisit illam capiend' assignat, quam inquisitionem idem Iohannes asserit, vt intellexisset, in curia domini regis retonatam, & ab hoc requisivit eosdem Iuratores, quod predicta inquisitio latere non debuit, ex parte domini regis quod ipsi in inquisitione ista de pred' metis & bundis facien' circumspecte agerent, & porrex' quandam scedulam, formam illius inquisitionis continentem, Et pred' Iuratores habito inter eos diutino consilio, dicunt per sacrm suum, quod tempore regis E. aui domini Regis nunc, nulla perambulatio facta fuit in Forestis com Surry, & dicunt quod perambulatio faciend' nunc in forestis illis, inchoanda est apud Waymouth & abinde semper in longitudine Tamisie vsq; Loderlakehache, vbi tres com conueniunt, viz. Surry, Bark, & Buck, Et abinde vsque orientalem corneram parci de Wyndsof, Et abinde vsque molendinum de Harpesford, Et abinde vsque Thornehull, & abinde vsque Sydeway, & abinde vsque La Lee, Et sic vsque Horton, Et abinde per medium  
La

la Shete vsq; Gomerichesford, Et abinde vsque Rolnes-  
 crouche, Et abinde vsq; Wyshemorseden, Et abinde vsq;  
 Brudeford vbi tres Comit' conueniunt, videlicet, Surrey,  
 Berk. & South. Et sic dicunt quod totus Comit' Surrey est  
 extra forestam, & fuerit tempore Regis H. proau' domini  
 Regis nunc, sicut patet per quandam perambulationem  
 factam tempore eiusdem Regis H. secundum tenorem  
 chartæ eiusdem Regis H. de foresta. Dicunt tamen quod  
 tēpore Regis E. aui domini R. nunc, quedā inquisitio cap-  
 ta fuit apud Lampheth coram Rogero Brabason, Ioh. de  
 Berwyke, Rad' de Hengham, Will' Iugge, & Iohanne de  
 Crokesley, per procuracionem dñi Hugonis le Dispenf.  
 senioris, hominibus Comit' predicti non pramunitis, excep-  
 tis quibusdam psonis in inquisitione illa existeñ vi & metu  
 eiusdem Hugonis ad hoc ductis, ad bundas & metas in  
 forestis Comit' präd' faciend', qui nullam perambulationem  
 nec vllam equitationem in forestis illis fecerunt, nec bun-  
 das nec metas in eisdem posuerunt: Et quia, alias tempore  
 Regis E. aui dñi R. nunc capta fuit inquisitio de huiusmodi  
 metis & bundis, prout liquet per inquisitionē istam modo  
 captam, & etiam ex dictis prädic' Iohis de Swinerton:  
 Ideo prädic' Thomas & socij sui, perambulac' in forestis  
 prädic' iuxta metas & bundas in inquisitione ista modo  
 capt' content', facere distulerunt, vsq; diem Lune in festo  
 sancti Mathei apud Weymouth, ad interim consulend' &  
 deliberand', qualiter in hoc casu in premissis sit faciend'.  
 Quem quidem diem prefixerūt pfatis Iohanni de Swiner-  
 ton, Viridar', Forestar', Iurato', & alijs de forestis illis ibi-  
 dem existeñ, vt prädic' est, quod ipsi ibidem tunc in-  
 teressent. Postea ad diem illum pädic'um, Iohēs de Sto-  
 nore, Iohēs de Ifeld, & Iohannes Dabnon, venerunt ad lo-  
 cum pädic', & Custos forestę domini Regis citra Trentam,  
 nec eius locum tenens, nec aliquis forestarius forestar' pre-  
 dictarum, scilicet, Viridar', Iurato' prädic', & alij in forestis  
 X illis



illis commorantes venerunt. Et super hoc dominus Rex mandauit Tho. & socijs suis, tribus vel duobus eorum breue suum, quod vocatur non obstante vt patet supra.

Et ideo prædicti Viridarij, Iuratores, & alij in forestis prædictis commorantes, per visum prædictorum Iohis, Iohis, & Iohis, non expectata præsentia custodis forestæ, vel eius locum tenentis, ad prædictas perambulationes faciend' processerunt in hunc modum: viz. de Waymouth in longitudine Tamise vsq; Stanesbridge, Et abinde in longitudine Tamise vsque Loderlake shache, vbi tres com' conueniunt, viz. Surrey, Bark, & Buck. Et abinde demittendo com' Bark, a dextra parte vsq; Stonyhelwel, Et abinde vsque les Quelmes, Et abinde vsque orientalem corneram parci de Wyndsof, Et insuper in longitudine palacij eiusdem parci vsque molendinum de Harpesford, Et abinde per eundem palacium vsque australem portum eiusdem parci, Et abinde transmeando Regiam viam vsq; Wyndwyngshull, Et abinde vsque interiorem partem de Bromhall, Et abinde per viam quæ dicitur Sydeaway in longitudine eiusdem viæ, Et abinde vsque La Lee, & sic vsque Horton, Et abinde per medium la Shete vsque Gomerichesford, Et abinde vsque Rolnescrouche, Et abinde declinando in dextra parte vsq; Wyshemorseden, Et abinde vsque Brudefordesbridge, vbi tres Com' conueniunt, videlicet, Surrey, Berk. & South. Et ita per prædictas metas & bundas facta est perambulatio forestarum prædict' in com' prædict'. Et præfat' Iohes & socij sui in diuersis locis, vbi videbatur eis faciend', publice proclamac' fecerunt, inhibent' omnibus & singulis ex parte domini Regis, ne quis venaret seu aliquid malefaceret in prædictis forestis, pretextu perambulac', antequam perambulatio illa per dominum Regem & Consilium suum confirmaretur, prout in prædicto parlamento ipsius domini Regis fuit ordinat', sub pena quæ incubuerit.

Puis apres, la dit Communalte del dit Countie luy a le  
 Chaunceller nostre Seignior le Roy esteant adonk a Pont-  
 fret, en priant en pleine Court a Sir John de Hochon  
 Euesq de Ely, Chaunceller adonk nostre Seignior le Roy,  
 que veult lenquest de la puraley de Sur le fait chiuache &  
 retoz per les Justices deuant luy quil fait droit & reason,  
 & que la dit puraley fuist confirme per charter nre Seignior  
 le Roy, selonc la primer charter, quil graunta des purales  
 confirmer a son pliamet a Westm, lan de son Reigne primer,  
 Et cela chart fut mis auant tesmoignant la volonte nostre  
 Seignior le Roy, come auant dit est. Et le dit Chaunceller  
 appelle a luy, les plus vaines Clerkes de la place, nome-  
 ment Messr Henr de Clif, sir Will de Harlastone, sir Mi-  
 chael de Wath, sir Tho. de Euesham, sir Henr de Edon-  
 stowe, sir Hugh de Bourgh, et sir Adam Brome, et auters,  
 et prist luy la dit enquest en pleine Countie. Et puis coun-  
 sailerent ensemble ceo que meur fuit a faire pur le Roy, Et  
 gardeine agarderent que la dit Communalte luy bziefe de  
 garnisher le Constable del Castele de Windsor, quil fuit a  
 certain iour deuant eux a la dit Chauncellerie, a mostrer sil  
 scauoit rien dire pur le Roy, q la dit puraley ne serroit con-  
 firme. Et en ceo, que le bziefe fuit a seale auant que Pont-  
 John de Lyle adonk Constable de Windsor vient a Pont-  
 fret, & fuit assis ouesk le Chaunceller en plein court: Et pur  
 ceo q le dit Constable fuit illonk en pper pson, dit fuit a luy  
 per le Chaunceller, quil alast, & se auisat pur le Roy, sil sca-  
 uoit rien dire a targer execution de le dit puraley, et sur ceo  
 iour luy fuit done de iour en auter, vn semaine entre illok  
 a Pontfret, et quil parlat en le mesme temps oue nostre  
 Seignior le Roy & oue son Counsaile adonk esteant a Pont-  
 fret pur le dit besoigne, le quel Constable alast, et soy auisat  
 de ceo ouesk nostre Seignior le Roy & oue son Counsaile,  
 & le dzeinct iour de la semaine il vient en la Chauncery, &  
 demaunde luy fuit, si il sauoit rien dire pur le Roy, & il al-

Nora bien que  
 per cest presi-  
 dent le per-  
 ambulation ne  
 fait aucun dis-  
 afforrestation  
 deuant que le  
 Roy ad con-  
 firme le per-  
 ambulation  
 oue parolx de  
 disafforresta-  
 tion.



legea en pleine Court pur nostre Seignior le Roy, que  
luy auoir vn Enquest prise en temps le Roy E. aiel nostre  
seignior, seignior le Roy que oze est a Lambeth, de certeine  
metes et bundes de la Forrest de Windsor, en le Countie  
de Surrey, deuant certeine seaur & leaux nostir Seignior  
le Roy a ceo deutes, et la quel chose fuit allege deuaunt  
Hons. Thome Tregor & ces compaignons, per Hons.  
John de Swynerton Lieutenant le Gardeine de la For-  
rest de la Trent, & pria que la Court de se boilet auiser pur  
le Roy E. La Communalte allegea, que cest Enquest de  
cest puraley retorne a oze deuaunt euz, ne fait mencion de  
la dit Enquest. Et puis demaunde fuit per le Chaunceller  
al Constable, sil sauoit auter chose dire pur le Roy, et il  
respondi que non, pur quoy il alast sans iour adonk hors de  
la court. Et dit fuit a la Constable, que agardast iour iour  
de iour en auter, & que se boilet auiser en mesme temps. Et  
puis nostir Seignior le Roy se endressa hors de parties  
del North, tank a les parties de West, et le Chaunceller  
ouelsq, & la Commualte auant luy apres pur la dit be-  
soigne de iour en iour, tank nostre Seignior le Roy vient a  
Hayles, et de Hayles a Winchcombe, Et a que lieu la  
Chauncellerie fuit assess. plenerement, et Hons. Roger  
de Mortimer Counte de la Marche, & auters graundes  
furent assess. pres le Chaunceller, ou la dit Commu-  
naltie pria le Chaunceller, que il ent fait droit & reason,  
et quil commaundast, si luy pless, que la dit puraley soit  
confirme: Du le dit Chaunceller fist lper lenquest deuaunt  
le dit Counte de la Marche et auters, & counsailerent en-  
semble: Et au darraigne dit fuit a euz, que les grandes de  
la terre, & le Counsaile le Roy serroit plener a Glouces-  
ter la prochein semaine luyant, quant lenterrement le  
Roy Edward pere nostir Seignior le Roy que oze est se  
fait, et adonk counsailes ensemble deuaunt le Roy et oue-  
pieres de la terre que adonk il serront, quil ent fait droit  
& rea

& reason, et sur ceo ils furent aiournes a Gloucester, et le dit Communaltie suy apres de Winchecombe tank a Chyltenham, et de Chyltenham tank a Gloucester, & illonk il mistrent avant leur besoigne en pzyant confirmation come avant, et illok en pleine Counsaile nostre Seignior le Roy enter les graundes de la terre illoks esteants: scilicet, Henrie de Lancaster Marehall, Edmund Countie de Kent, John Countie de Brane, Roger Countie de la Marche, et auters Barons & Chivalers priupes de Counsaile le Roy, firent choses auant dits declares & pronounces deuant eux per le Chaunceler, ou a darrein accorde fuit enter eux, que les choses fussent confirmes solonc le graunt que nostre seignior le Roy graunta a ion parliament. Et commaunde fuit a dit Chaunceler, quil deliuerast la dit Communaltie, sur quoy ilz aueront iour de iour en auter, pur ceo que nostre seignior le Roy se remoue hors de Gloucester a Tewkesburie, et de illok tank a Worcester, ou nostre Seignior tient son Noel. Et le dit Communaltie pria execution come auant, et le Chaunceler commaund a faire la Charter, et quant la Charter fuit escript pur eux, fuit commaund que il ne boilet la Charter a sealer sans scauoir adpriues la targe nostre seignior le Roy de ceo faire en garrant. Et puis apres tant fuit suy frechement per la dit Communaltie la venderdy le iour de la Nat nostre Seygour que la targe fuit commaund de faire al dit Chaunceler, et fuit fait, et il auient en garrant, issint que lendemain le samadie le iour de Saint Steuen fuit la Charter de confirmation de la dit pntaley fait et enseale en un petite meason assis, sur lieu de Seuerne deyns la Prioz de Worcester la, ou il asselerent la dit iour tout auter brieses touchants le Commune de la terre, et payeront leur fee del seale, et aueront leur Charter confirme, come appiert per exemplification de icel en la dit maner que ensuit.



Edwardus dei gratia, Rex Angliæ, dominus Hiberniæ, & Dux Aquit, Omnibus ad quos præsentis literæ peruenierint, salutem: Sciatis quod, cum nuper in parlamento nostro apud Westm conuocato, ad supplicationem Prælatorum, Comitum, Baronū, & Communitatis Regni nostri, per literas nostras patentes concess. quod perambulac' tempore domini E. quondam Regis Angliæ aui nostri, in Forestis suis tam citra Trentam quam ultra factæ, & per ipsum Auum nostrum concessæ & confirmatæ, secundum metas & bundas in eisdem perambulac' contentas obseruentur imperpetuum & teneantur, Et quod perambulac' in forestis, in quibus tempore dicti Aui nostri factæ non fuerunt, per fideles nostros ad hoc assigni fierent, sub eaceleritate qua fieri possent bono modo. Et quod nos perambulationes illas, cum factæ fuerint, & nobis returnatæ sub metis & bundis, quas in eisdem inueniri contigerit pronobis & hæred' nostris confirmari & approbari faceremus, prout in literis nostris prædictis plenius continetur, Ac postmodum ad requisitionem Coitatis com' Surrey nobis suggerent', quod perambulac' in forestis nostris in eodem Com' factæ non fuerunt, volentes concessionem nostram prædictam effectum mancipari, assignauimus dilectos & fideles nostros Tho. Tregor', Ioh. de Stonore, Ioh. de Ifeld, & Ioh. de Dabnon, ad perambulationem rectam in forestis nostris in eodem Com', in quibus perambulationes tempore dicti aui nostri factæ non fuerunt, per sacramentum tam militum quam aliorum proborum & legalium hominum de eodem Com', per quos rei veritas melius sciri, & perambulationes illæ melius fieri possent, faciend', iuxta tenorē Chartæ domini H. quondam Regis Angliæ proau' nostri de foresta: Ac iidem Thomas, Iohannes, Iohēs, & Iohēs, perambulationē huiusmodi in eodem Com', prætextu assignac' nostræ eis inde sic factæ, fecerunt, & eas nobis in Cancellariā nrām miserunt in forma subscripta.

*Peramb.*

*Perambulatio Forestæ Com' Surrey iuxta metas & bundas per inquisic' inde captas coram Tho. Tregorr', Ioh. de Stonore, Ioh. de Ifeld, & Ioh. Dabnon, ad perambulac' illam faciend' assign'. Et postea facta per visum prædict' Ioh. Ioh. & Ioh. ac per sacramentum Henr' Huse, Hen. de Monteforti Militum, Rob. le Dol. Hen. de Somerbury, Wilhelmi Huse, Iohis de Bures sen', Mich. de Bachiller, Ioh. de Prodehome, Will. de Porkle, Ioh. at Stoket, Rob. le Ditton, & Ioh. de Kingswood Iurat'. Qui dicunt, quod tempore dicti anni nostri nulla perambulatio facta fuit in Com' Surrey, sed perambulatio faciend' in forestis nostris, inchoand' est apud Waymouth, Et abinde semper in longitudine Tamisia vsq; Loderlakebache, ubi tres Com' conueniunt, viz. Surrey, Bark. & Buck. Et abinde vsq; orientalem corneram parci de Windfore, Et abinde vsque ad molendinum de Harpesford, Et abinde vsq; ad Thornehull, Et abinde vsque Sydewey, Et abinde vsq; la Lee, Et abinde vsq; Horton, Et abinde per medium la Shete vsq; Gomerishford, Et abinde vsque Rolnescrouch, Et abinde vsq; Wyshemoresden, Et abinde vsq; Brudeford, ubi tres Com' conueniunt, viz. Surrey, Bark. & South. Et quod totus Comitatus Surrey est extra forestam, & fuit tempore dicti Regis H. proani nostri.*

Nos perambulac' prædict' acceptantes, eam pro nobis & hæredibus nostris, quantum in nobis est, ratificamus, approbam', concedimus, & confirmamus, secundū metas & bundas prædict' imperpetuū obseruand'. Saluo semper in omnibus iure nostro. In cuius rei testimonium has literas nostras fieri fecimus patentes. Teste me ipso apud Wygorū xxvj. die Decemb', Anno regni nostri primo.

*Nota le confirmation del Purallee per le Roy.*

Per ipsum Regem & Cons.

Et puis apres, la dit Communaltie sup tank a Solyhull en Arderne, apres la dit Chaunceller nre seignior le Roy, & illok auient la Charter double: Ilint que la primer charter cy est a seale de vert sere, que demoert en la gard en



Labbey de Certesey en le Countie de Surrey, Et sauter a seale de blanche sere, que demoert en gard.

Et pur ceo, que nostre Seignieur le Roy veolt que sa Charter de confirmement de la dit Puraley, soit lye en pleine Countie, et de ceo proclamation fait, que ele soit firment garde solong les bounds: saue per luy quarant iours de chaser ces beastes, et a ceo faire, maunda son brieve a Uicont de Surrey, come plus pletignement appiert per le transcript que ensuit.

Edwardus dei gratia, Rex Angliæ, dominus Hiberniæ, & Dux Aquit, Vic' Surrey, salutem: Cum nuper in parliamēto nostro apud Westm̄ conuocato, ad supplicationem Prælatorum, Comitum, Baronū, & Communitatis Regni nostri, per literas patentes concesserimus, quod perambulac' tempore dñi Edwardi quondam Regis Angliæ aui nostri, in forestis suis tam citra Trentam quam ultra factæ, & per ipsum auum nostrum concessæ, & confirmatæ, secundum metas & bundas in eisdem perambulationibus contentis, obseruarentur imperpetuum & tenerentur. Et perambulac' in forestis, in quibus tempore dicti aui nostri factæ non fuerunt, per fideles nostros ad hoc assignand' fierent sub ea celeritate qua fieri possent bono modo, Et quod perambulationes illas, cum factæ fuerint & nobis retornatæ sub metis & bundis, quas in eisdem inueniri contigerit, pro nobis & hæred' nostris confirmari & approbari faceremus, Ac postmodum ad requisitionem Communitatis Com̄ p̄dict' nobis suggerentis, quod perambulationes in forestis nostris in eodem Com̄ factæ non fuerunt, volentes concessionem nostram p̄dict' effectum mancipari: Assignauimus quosdam fideles nostros ad perambulac' rectam in forestis nostris in eodem Com̄ in quibus perambulationes tēpore dicti aui nostri factæ non fuerunt, per sacm̄ tam militum quam aliorum proborum & legaliū hominum de eodem Com̄, per quos rei veritas  
melius

melius sciri, & perambulationē illā melius fieri possent, faciend', iuxta tenorem Chartæ domini H. quondam Regis Anglie proavi nostri de Foresta: Ijdemq; fideles nostri perambulac' huiusmodi in eodem Coñ, prætēxtu assigni nostræ eis inde sic factæ, fecerunt, et eas nobis in Cancellaria nostra miserunt: Ac nos per literas nostras patentes dictam perambulationem acceptauimus, et eam pro nobis & hæred' nostris, quantum in nobis est, ratificauimus, approbauimus, concesserimus, & confirmauimus, secundum metas & bundas in dict' perambulac' contentas impetuum obseruand': Saluo semper in omnib' iure nostro, prout in literis p'dictis nostris plenius continetur. Tibi precipimus, quod literas nostras in pleno Coñ tuo legi, & dictam perambulationem secundū metas & bundas in eisdem literis nostris contentas publicè proclamari, & firmiter obseruari faciatis: Saluis nobis quadragint' diebus a tempore dat' huius breuis munerand', ad feras nostras in locis extra forestam perambulac' p'dict' sic positi existentes, ad forestam nostram effugand'. Teste me ipso apud Wygori xxvj, die Decemb', Anno regni nostri primo.

Per ipsum Regem & Cons.

Et pur ceo, que nostre Seignior le Roy voise, que son Constable de son Castel de Windsor, soit apus des bounds de la dit puraley, et quil enchasea ses beastes deins le temps de quarant iour, hors de la puraley, tank a la Forrest, nostre Seignior le Roy, ad maund son bziese a ceo faire, en garrant, come appiert plus pleignement per le transcript, que ensuit.

Edwardus dei gratia Rex Angliæ, dominus Hiberniæ, & Dux Aquit', Constabular' Castri sui de Winsore, vel eius locum tenenti, salutem: Cum nuper in parlamento nostro apud Westm conuocat', ad supplic' Prelator', Coñ, Baron', & Com-



& Communitatis Regni nostri, per literas nostras patentes concesserimus, quod perambulac' tempore dñi Edwardi quondam Regis Anglię aui nostri, in forestis suis, tam citra Trentam quam ultra factę, & per ipsum auum nostrum concessę, & confirmatę, secundum metas & bundas in eisdem perambulationibus contentas, obseruentur imperpetuum & teneantur, quod perambulac' in forestis, in quibus tempore dicti aui nostri factę non fuerunt, per fideles nostros ad hoc assignand' fierent sub ea celeritate, qua fieri possit bono modo: Et quod nos perambulationes illas, cum factę fuerint, & nobis retornatę sub metis & bundis, quas in eisdem inueniri contigerit, pro nobis & heredibus nostris confirmari & approbari faceremus, prout in literis nostris plenius continetur, Ac postmodum ad requisitionem Communitatis Com' Sur' nobis suggerentis, qd' perambulac' in forestis nostris in eodē Com' factę non fuerunt, volentes concessionem nostrā p'dict' effectum mancipari: Assignauimus dilectos & fideles nostros Thomā Tregor', Iohēn de Stonore, Iohēm de Ifeld, & Iohēm Dabnon, ad perambulac' rectam in forestis nostris in eodem Com', in quibus pambulationes tēpore dicti aui nostri factę non fuerunt, per sacri tam militum quam aliorum proborum et legalium hominum de eodem Com', per quos rei veritas melius sciri, & perambulationes illę melius fieri possent, faciend', iuxta tenorem Chartę domini Henrici quondam Regis Anglię proauis nostri de Foresta: Ac iidem Thomas, Iohēs, Iohēs, & Iohannes, perambulac' huiusmodi in eodem Com', p'extu assign' nostre eis inde sic factę fecerint, et eas nobis in Cancellariam nostrā miserint in forma subscripta.

*Perambulatio Foresta comitatus Surry, iuxta metas & bundas per inquisitionem inde captam coram Thoma Tregor', Ioh. de Stonore, Ioh. de Ifeld, & Ioh. Dabnon, ad perambulationem illam faciend' assignat'. Ac postea facta per visum p'adict'*

prædicti Iohis, Iohis, & Iohis, ac p sacrm Hen. Huse, Henrici de Monteforti Militum, Rob. le Dol. Henrici de Somerbury, Will' Huse, Iohis de Bures sen', Mich. le Bachiller, Iohannis Prodehome, Will' de Porkle, Ioh. Stoket, Rob. de Ditton, & Ioh. de Kingwood Iurat: Qui dicunt quod tempore dicti Aui nostri nulla perambulatio facta fuit in Com' Surr'. sed perambulatio facienda in Forestis illis inchoada est apud Waymouth, Et abinde semper in longitudine Tamisie usq. Loderlakeshach, ubi tres Com' conueniunt, viz. Surr', Bark. & Buck. Et abinde usq. orientalem corneram parci de Windfore, Et abinde usque molendinu de Harpesford, Et abinde usq. Thornehull, Et abinde usq. Sydewey, Et abinde usq. la Lee, & sic usque Horton, Et abinde per medium la Shete usq. Gomerishford, Et abinde usq. Rolnescrouch, Et abinde usq. Wisbemoresden, Et abinde usq. Brudeford ubi tres Com' conueniunt, viz. Surrey, Bark. & South. Et quod totus Com' Surrey est extra Forestam, & fuit tempore dicti Regis Henrici proani nostri.

Ac nos perambulationes prædicti acceptantes, et eas pro nobis & hæred' nostris in quantum nobis est, ratificauerimus, approbauerimus, concesserimus, & confirmauerimus, secundum metas & bundas prædictas imperpetuum obseruand': Saluo semper in omnibus iure nostro, prout in literis nostris prædictis plenius continetur: Per quod præcepimus Vicecom' nostro Com' prædict', quod perambulat' prædicti secundum metas & bundas in eisdem literis nostris contentas faciat obseruari: Saluis nobis quadraginta diebus a tempore breuis nostri sibi indirecti numerand', ad faras nostras in locis extra forestam per perambulationes prædicti, sic positis existentes, ad forestam nostram effugand'. Vobis mandamus, quod faras nostras infra quadraginta dies a locis extra forestam sic positis, ad forestam cum omni celeritate, qua poteritis, effugari faciatis, Et talem & tantam diligentiam in hac parte apponatis, quod dampnum nobis de feris nostris



nostris ibidem per vestri negligentiam nullatenus geñet.  
 Teste meipso apud Wigorn, xxvj. die Decembris, Anno  
 regni nostri primo.

Per ipsum Regem & Cons.

Per vertue de quel brieve, apres le Charter lye en Countie, & la proclamation fait, que le Puraley serroit firmement gard, le dit Constable del Castel de Windsor, enchasea les beastes nostre Seignior le Roy deins le temps de quarante iours auantdit, hors de la puraley, en la forrest nostre seignior le Roy, et deins quel temps les bon gents del Countie de Surrey se tyndrent en pear, sans rien chasser ou male faire. Et apres les quarante iours, les bones gents del Countie de Surrey vlerent leur franchise come atteint a eux, solonc a volunt nostre Seignior le Roy a eux fait auantdit & confirme.

Icy finist les proces de la Puraley de la Forrest de Windsor, fait en le Countie de Surrey, et sup en la manner, come auant est dit, tank ele fuit encharter et confirme de la bon volunt nostre seignior le Roy, solonc ceo quil graunta en pleine parliament, as grandes et la Communalcie de la terre, a tener & a garder pur luy et pur ces heires a tous iours per les letters Patents, come ils fuissent confirmes.

3 Whereof it is named Pourlieu, Pourluy, or Pourallee.

**B**y these two presidents befoze recited, it is plainly declared and set downe, how, and in what maner, the new affozrestations were disaffozrested again by reason of the perambulations, & also how the Puralles had their first beginning, for, all such woods & lands, as were affozrested by king Henry the second, king Richard the first, or king Iohn as afozesaid, and were after wards by the perambulations that

that were made thereof, seuered from the old auncient Forrestes, and disafforrested again, they were and yet still are called Pourallee, that is to say, woodes and landes, which were seuered from the old Forrests, and so disafforrested by the perambulations: For, this woord Pourallee in French, is Perambulatio in Latin, that is a Perambulation or perfect view, which is taken by walking ouer a thing, or neare vnto it, and so this woord Pourallee beeing so vnderstood in his owne proper signification, doth declare both the originall beginning of the thing, and also the nature thereof: And these two woordes Purlicu and Purluy are oftentimes abusiuely vsed and taken for this woord Pourallee, but being rightly vnderstood, they are woordes far different in signification from Pourallee: for, Purlicu is for the place, and Purluy is for him, whereas this woord Pourallee doth signifie landes disafforrested by the perambulation.

4 That the Purlicu in some sort is Forrest still.

**A**nd although that such new afforrestations were disafforrested againe by the Perambulations, as aforesaid, and so thereby the same became Pourallee, (or Pour Lieu as some men abusiuely do call it,) yet the same is not so absolutely disafforrested thereby for euery man, but that in some sort the same doth remain Forrest still to some men, and yet disafforrested and freed in some sort for some men: For, it was graunted euen by the woordes of Carta de Foresta, that if the king had afforrested any woodes of any mans, more, then the kings owne demeasne woodes and landes, *ad dampnum illius cuius boscu ille fuerit, statim deafforestentur*, that is to say, if they were afforrested to the hurt or losse of him, whose woodes or lands the same were, that forthwith they should be disafforrested againe.

Carta de Foresta artic. 1.

So



So that quoad aliquod dampnum illius, cuius Boscus ille fuerit deafforestentur, which is, that those woods & lands which were newly afforested, and disafforested againe by Carta de Foresta, and the perambulations that were made thereof, they were disafforested and freed of the bondage of the Forrest, onely for those that were the proper owners thereof, so that the very owners of such woods and lands might, after such disafforestation, fell and cut downe their woodes at their owne pleasure, without any licence of the king, and also conuert their meadowes and pastures into tyllage or arrable land, and otherwise improve the same to their better aduantage and profite, and likewise they might hunt & chase the wild beasts of the Forrest towards the Forrest, so that they do not forstall nor foreset them in their returne towardes the Forrest againe: But yet no other man is to take any benefit in the Pourallee by the disafforestation of those woods & lands, but onely the proper owners thereof: So that the Pourallee is disafforested, but onely quoad illos, to those that are the proper owners of the woods and lands there, and the same remaineth Forrest still quoad illos, to those that are not owners of any woods or lands in the Pourallees: For the owners of such woods and lands within the Pourallees may suffer the same to remaine Forrest still, if they will, notwithstanding the disafforestation: as it doth appeare by the Statute of the Pourallee made in Anno 33. Ed. 1. in which case, if the owners of such woodes and lands in the Pourallees, had rather to haue the same to remaine within the Forrest, as it was before, (to the intent, that they may haue the benefit of common within the Forrest) then to be out of the Forrest, and within the Pourallee, they may bee at their choise therein, if they will: Which doth proue, that the woods & lands in the Pourallee, are disafforested but onely for the owners thereof, and not generally for euery man to hunt

See Master  
Hesket in his  
Reading vpon  
Carta de Fo-  
resta, and Ma-  
ster Treherne  
accordingly.

Anno 33. E. 1.  
Stat. 5.

Hunt and spoyle the wilde beastes of the Forrest there at their owne pleasure, for, if the wilde beastes of the King doe chance to wander out of the Forrest into the Pourallee, yet the King hath a proprietie still in those wilde beastes against euerie man, but onely against them that are the proper owners of the woodes and landes, in which they are, for there, they haue a speciall proprietie in those wilde beastes *Ratione soli*, but yet so, that they take them by chasing with Grehounds or Dogges, without any forstalling or forsetting of them in their course or returne againe towards the Forrest, for the King hath alwayes Officers in the Pourallee, which are called *Rangers*, to attend vpon the wilde beastes of the Forrest, and to re- chase them backe againe out of the Pourallee into the Forrest, which doeth proue, that, although the wilde beastes doe wander out of the Forrest into the Pourallee, yet the King hath a proprietie still in those wilde beastes, for otherwise the *Ranger* might not lawfully re- chase them backe againe into the Forrest. And it is holden by the opinion of Master Justice Cokeine in Anno 7. of Henry the sixt, that if a Hart doe goe out of the Forrest of the King, the kings Forresters may follow after him, and make Proclamation in the next Townes, where the same Hart is, that no man shall Hunt or slay him, and that then, after that such Proclamation is made, it is not lawfull for any man to take or slay such a Hart: which doeth proue, that, although such wild beasts bee out of the Forrest, and in the Pourallee, yet the king hath a proprietie still in them, and therefore the Pourallee in some sort is Forrest still for the kings wilde beasts, to haue their free concourse in, and safe returne againe to the Forrest, without any hurt or detrement of any man, other then the owners of such woods and lands in the Pourallees, wherein they shalbe found, to Hunt and chase the m towards the Forrest againe

without

Vide 13. H. 7.  
fol. 16. p. 14.  
Pascaz An. 70 7  
H. 6. fol. 36.  
pla. 41.  
Vide H. 13. H.  
7. fo. 16. p. 14.  
q1 case proue  
que comēt que  
hōe poir pre-  
scribe al en-  
chafer les sa-  
uage beasts in  
mon terf, que  
sont mes te-  
res, vncore il  
ne poir pre-  
scriber d'en-  
chafer les be-  
astes sauage  
del Roy, que  
sont en mon  
terre: Sicome  
les feres que  
aler hors le  
Forest le Roy  
en le poural-  
lee.



without any forestalling or foresetting of them in their  
returne to the Forrest.

5 How, and for whom, the Purlicu is free to hunt in.

See the Sta-  
ture of 13. R.  
2, cap. 13.

**A**lthough that the Pourallee be Forrest still to those,  
that haue neither woods nor lands of freehold therein,  
yet those, that haue woodes and lands of freehold within  
the Pourallees to the perely value of forty shillings by the  
pere, may keepe Greyhounds by the Statute of 13. R. 2.  
cap. 13. And when that they do find the wild beastes of the  
Forrest within their woods & lands in the Pourallee, they  
may chase the same wild beastes with their Greyhounds  
towards the Forrest: for, the owners of such woods and  
lands in the Pourallees haue property in those wild beastes,  
so long as they are in their owne woods and lands, ratione  
soli, and so, that they do first make their course in their  
owne Pourallees, that is to say, in their owne woodes or  
lands, they may pursue their chase through euery other  
mans lands. But if the wild beastes will returne home a-  
gaine to the kings Forrest to challenge the benefit of their  
sanctuarie of peace therein, they must haue their free pas-  
sage thereunto, without any forestalling or foresetting of  
them, in their returne and course between the Forrest and  
the Pouralle, either with dogges, gunne, crof bow, long-  
bow, dead hey, quick hey, or any manner of engin or let  
whatsoever: for, all such manner of forestalling or fore-  
setting of the wild beastes betweene the Forrest and the  
Pourallee, is absolutely forbidden by the Assises of Wood-  
stock, made by king Henry the second, vpon paine of one  
peres imprisonment, and the offenders therein to be fined  
also at the kings pleasure, and so the Pouralle in some soze  
is free for some men, as aforesaid, to hunt there.

See the Assi-  
ses of Wood-  
stock, made  
in Anno 30.  
H. 2, artic. 13.

6 The difference betweene the Purlicue  
and the Forrest.

**T**he difference betweene the Forrest, and the Poural-lee, is this, that, all the woods and lands, which are within the Regard of the Forrest, are absolutely within the bondage and charge of the Forrest, aswell in respect of the owners of those woods and landes, as of anie other person, for, men may not sell nor cut downe their woodes within the Regard of the Forrest, without licence of the King, nor otherwise improue their landes, nor, no man may in any sort Hunt, chase, or disquiet, the wilde beasts of the Forrest in their owne lands within the regard of the Forrest, without some warrant or aucthoritie deriued from the King: But those, that haue woods and lands within the Pourallees, they are without the regard of the Forrest, and therefore they are absolutely free from the bondage of the Forrest, in respect of felling of their woods, and conuerting of their meadowes and pastures into arable land and tillage, and otherwise to improue the same at their owne pleasure to their best aduantage and profit, but yet, the woods and lands in the Pourallees, although that they be without the Regard of the Forrest, are not absolutely freed of the bondage of the Forrest, in respect of the wild beasts, to haue their haunt and being therein, at such times, as they shall chance to wander out of the Forrest, so that the woods and lands in the Poural-lee were once absolutely Forrest, and now they are but conditionally in some sort Forrest.



- 7 The difference betweene the Purlicu and that which is no Purlicu, nor Forrest, but is absolutely free.

**A**nd the difference betweene the Pourallee, and that which is no Pourallee, nor Forrest neither, but is absolutely Free, is this: First, the same was neuer Forrest at any time, and therefore neuer disafforrested; and for that cause the same is absolutely free from any bondage of the Forrest in any sort, and in such landes the Kinges wilde beasts haue no Priuiledge allowed them to haunt or repaire therein, neither are there any Raungers or Raunger appointed by the King to rechase them out of those landes into the Forrest againe. So that in those lands, which are neyther Forrest, nor Pourallee, but are absolutely Free, if they be not to neare adioynning vnto the precincts and boundes of the Forrest, it is lawfull for euery Freeholder in any sort to Hunt and Chase with Dogges those wilde beastes, that are therein, (forrestalling and forsetting of them in their returne to the Forrest againe, only excepted.)

- 8 Who may Hunt in the Purlicu, and who shalbe said to be a Purlicu man.

**B**ut now, who may Hunt in the Pourallee, and who shalbe said to be a Pourallee man, and who not, is here very necessarie to be declared. And therefore it is to be understood, that he, that may lawfully Hunt in the Pourallee, must be a Pourallee man. And a Pourallee man is he, that hath Free lands within the Pourallee, to the peerely value of fortie shillings, for such a Pourallee man may lawfully keepe Greyhounds by the Statut of 13, R. 2. to Hunt and Chase

Chase there, and therefore he may Hunt his owne Poural-  
lees, that is to say his owne woods and landes that he hath  
within the Pourallees, but no man may Hunt his owne  
Pourallees with any Greyhound or Greyhounds, or with  
any other Dogges, that are likely to kill any beast of Ve-  
nerie or Chase, except he may dispend fortie Shillings by  
the peere of free landes within the Pourallee, and for that  
cause the Pourallee is called Pourluy, that is to say, For  
him, for, it is free onely for him, that may dispend fortie  
Shillings by the peere at the least, to Hunt in his owne  
Pourallee, but yet so, that he must alwayes first make his  
course in his owne woods or lands, which he hath within  
the Pourallee, and therefore it is called Pourlieu, that is  
to say, for the place, or, for his owne woods or lands, but  
not in every place within the Pourallee, or in every mans  
woods or lands, but every man in his owne woods and  
landes: for, there is a difference betweene a Pourallee  
man, and a man that hath woods and landes within the  
Pourallee. For, although that a man haue woods and  
landes within the Pourallee, yet if he may not dispend for-  
tie Shillings by the peere of free landes there, he is not a  
Pourallee man. But yet, if he do finde any wild beastes  
of the Forrest in his owne woods or lands within the Pou-  
rallee, he may chase them out of his woods and lands with  
little Dogges, but not with Greyhounds nor great Dogs,  
as it doth appeare by the Case in 43. of E. 3. of the Earle  
of Arundell. But he, that hath no freehold at all of any  
lands within the Pourallee, is utterly excluded from Hun-  
ting or Chasing in the Pourallee, and to such men the  
Pourallee is absolutely Forrest still, And so the Pourallee  
is Pourluy, that is onely for him that is a Pourallee man,  
and for him it is but Pourlieu, which is, to Hunt in his  
owne lands, and not otherwise.

Hill. Ann. 43.  
E. 3. fo. 8. pla-  
cito 23.



9 In what sort a Purlicu man may hunt  
in the Purlicu.

**B**Ut now, in what sort, a Pourallee man may Hunt and Chase the wild beastes of the Forrest, being within his owne Pourallee, that resteth yet to be declared: And therefore it is to be noted, that, when any Pourallee man doth finde any wild beastes of the Forrest in his Pourallee that is in his owne freehold lands, that he hath within the Pourallee, he may let slippe his Dogges after the wild beastes, and hunt and chase them there, so that he do not stand betweene them and the Forrest with his dogges to forstall: and let them of their retozne againe to the Forrest, for, that is prohibited and forbidden by the Assises of Woodstock in these words, Item rex præcipit, quod nullus de cetero chaceat vlllo modo ad capiend' feras per noctē infra forestam, neq; extra, vbiunque feras suæ frequentant, vel pacem habent aut habere consueverunt, sub pena imprisonamenti vnius Anni, & faciendo finem & redēptionem ad voluntatē suam, & quod nullus sub eadem pena faciat aliquā forstallationem feris suis viuam vel mortuam inter forestam suā & boscos vel alia loca per ipsum vel progenitores suos deaforestatos: the king cōmandeth, that, from henceforth no mā shall chase or hunt by any meanes to take any wild beastes of the Forrest by night within the Forrest, nor yet without the Forrest in any place wheresoeuer his wild beastes do frequent, or haue a firme peace, or haue vsed to haue a peace, vpon paine of one yeeres imprisonmēt, & to make his fine & ransome at the kings wil & pleasure, & likewise, that no mā shal, vpon the same paine, make any forstalling for his wild beastes, either with dead hay or quick hay, between the kings Forrest and the woods or other places by him or his progenitors disafforested: By this it doth not onely appeare,

that:

See the assises  
of H. 2. called  
the Assises of  
Woodstock  
artic. 13.

that all manner of forrestalling with Dogges or any other  
 Ingin, is utterly forbidden to be vsed in the pourallees, but  
 also, in what sort, the same is to be punished, if any such  
 thing be done, & therefore euery pourallee man, or poural-  
 lee hunter, must know this, that, although he do find the  
 wild beastes of the kings Forrest in his owne pourallee,  
 and in respect thereof he hath proprietie in them, Ratione  
 soli, against euery man sauing against the king onely: yet  
 he hath but a condicionall proprietie in them, that is to say,  
 if he can slea them with his Dogges in chase, without a-  
 ny manner of forrestalling, before that they do recouer the  
 Forrest againe, then such wild beastes are absolutely the  
 owners of such Dogges: but, if such wild beastes do once  
 recouer the Forrest againe, although that they be *Nisi in-  
 fia filum Forestæ*, but within the lyst or the bynke of the  
 Forrest, before that the Dogges do fasten vpon them,  
 then they are absolutely the Kings wild beastes againe,  
 or the owners of the Forrest. But if anie Pourallee  
 man do first make his Chase in his owne Pourallee as hee  
 ought to do, he may still purswe and follow his Chase  
 thorowe euery other mans free lande within the Poural-  
 lees, so that he do not enter into the kings Forrest, vnles  
 it be in some Cases, as hereafter in the twelfth Deuision  
 of this Chapter moze at large shalbe declared. And euery  
 Pourallee man must Hunt his owne Pourallee himselte,  
 and with no other companie, but his owne seruantes, nei-  
 ther may anie Pourallee man appoynt any other to Hunt  
 his Pourallee for him by his commaundement, but onely  
 himselte with his owne household seruantes, when that  
 he is present, and not otherwise: for, the auctoritie, that  
 a Pourallee man hath to Hunt in his owne Pourallee, is,  
 but a Condicionall licence of profit, which is strict and  
 cannot be set ouer to anie other, as it doth appeare in Ash-  
 tons Case in 18.Edw.4. where it is holden, that, if a man

Mich. 18.E. 4  
 fol. 14. 1 la-  
 cito 12.



do giue me a Licence to Hunt and kill one Bucke, in a certaine place, and that to dispose, my seruauant cannot iustifie to do that by my commaundement, for that licence goeth strictly to him, to whom it is giuen, and to no other. And furthermoze no Pourallee man may Hunt or kill any vnseasonable Deere, although that the same bee found in their owne Pourallee, for, that were a double offence and trespasse to the Forrest, to spoile a wild beast that is good for nothing, when that the same is slaine, and such wild beasts, when that they are out of season, commonly are not able to make any course, nor otherwise to shift for themselves by flight.

And if any Pourallee man with his Dogges doe chase the wilde beastes of the Forrest in his owne Pourallee; and his Dogges do still pursue their Chase towards the Forrest, before that they do enter into the Forrest, he must repeale and call backe againe his Dogges, for otherwise, if that they do chaunce to slea the same wild beast, or any other in the Forrest, then the owner of such Dogges shalbe compted a Trespasser in that killing within the Forrest, Tanquam de manupasto, as it doth appeare in 43. of Edw. 2. where it is holden, that, if such a Hunter do repeale and call backe againe his Dogges, before that they do enter into the Forrest, that yet in that Case, although that they do chaunce to kill a wilde beast in the Forrest, the owner of such Dogges shalbe excused of that Trespasse, so that he himselfe do not enter into the Forrest, nor medell with the wild beast so killed, and therefore to the end that a Pourallee man may the better remember briefly in what sort he may Hunt in the Pourallee, let him learne these six Lessons:

1. That he do beginne his chase in his owne Pourallees.

2. That

Hilb. An. 43.  
R. 3. fo. 8. p. 23

- 2 That he do not Forrestall nor kill þ wild beasts with any Ingin.
- 3 That before his Doggs do enter in the forrest, he do repeale & call them back againe.
- 4 That in no sort he do pursue his dogs into the Forrest, except that they fasten vpon the Deere first, and that the Deere do draw the Dogges into the Forrest and then kill the same.
- 5 That he do Hunt with no more companie but his owne seruants.
- 6 That he do hunt no vnseasonable Deere.
- 10 When and how often a Purlicu man may hunt there.

**A**lthough that a Pourallee man may Hunt and chase in the Pourallee, as before hath bin declared, yet, it is to be understood, that such Hunting & Chasing is to be vsed, but at certaine times, & not alwaies nor generally at all times. And therfore Pourallee men must know this, that they may not hit nor chase in their owne Pourallees, at all times, nor in what manner they themselves will, for then the Pourallees would in very short time destroy the Forrests, and that may not be suffered: wherefore, the Auncient vsage and pollicie of the Forrest Lawes haue alwayes prohibited Pourallee men to Hunt or chase in their owne Pourallees, contrary to any of these tenne precepts, which hereafter do follow, viz.

A Pourallee man may not Hunt

- 1 in the night, for that is inhibited by the Assises of Woodstock in the 13. Article.
- 2 on the Sunday, for, that day is appointed for the seruice of God onely, & not for such pastimes.
- 3 in the fēce moneth, for the disquieting of the Deere that are great with fawne.



- 4 any oftener, then three daies in one weeke, least their often Hunting may cause the disquiet of the wild beasts in the Forrest.
- 5 with any more companie then his owne seruants, because his interest of Hunting is but a conditionall licence of profit, that goeth strictly to him, to whom the same is giuen, and not to any other.
- 6 within fortie daies next after the kings generall hunting in the Forrest, because the wild beasts are feared out of the Forrest, and do not go out of themselves.
- 7 within fortie daies next before the kings generall hunting proclaimed, because then the wild beasts must not be disquieted, to the end that the king may haue the full view of them.
- 8 when that the Forrester is seruing of any warrant neere vnto the borders of the pourallees, hauing notice thereof, for hindring him therein.
- 9 with any manner of Forrestalling, or other Tuging, to take the Deere withall, neither with Gunne, nor Crosbow, but onely by chaling with his dogs, for that is prohibited by the Assises of Woodstock articulo 13.
- 10 any vnseasonable Deere, although that they do find them in their pourallees, because that the they are litle worth, and not able to runne, and therefore forbidden by the Lawes of the Forrest to be killed.

Bractō de legibus & consuetudinibus Angliæ,

The Pourallee men must remember, what H. Bracton saith, viz, Vtere tuo, vt alienum non ledas, that is to say, euery man must vse that, which is his owne, so that he do not hurt, nor harme any other man thereby. And in like manner, it may be said to the Pourallee men, that they must vse their pleasure of Hunting and Chaling in their Pourallees, so that they do not thereby disturbe the wild beastes of the kings

kings Forrest, that are within the Regard of the Forrest, of their firme peace: for, if any common person had a Forrest, or, a Chase, of his owne, He would hardly suffer or indure any other man, to Hunt or chase any wilde beastes so neere vnto his Forrest or Chase, that by such hunting and chaling, his Forrest or Chase might become destroied, Ergo much lesse the King, whose onely prerogatiue is to haue such Forrests of wilde beastes for his delight and pleasure, and therefore as master Pollard said in 12. of H. 8. Hoc facias alteri, quod tibi vis fieri, that is, Let euerie man do vnto an other, as he would bee done vnto himselfe, and so let euerie man, that is a Pourallee man, Hunt the wilde beastes of the kings Forrest, being in their Pourallee, so, as they would be contented to haue their wilde beastes hunted, if they were owners of Forrestes themselves. And surely at this time it is a thing lamentable to behold and see, what stately and princely Forrestes, that in times past were accounted ornaments vnto a kingdome, are now cleane destroyed and spoled, partly, because that the true meetes & bounds of the Forrest are not knowne vnto the Officers of the Forrest, and to others, as they ought to bee, by reason whereof, that, which is Forrest, is taken and vsed or rather abused for Pourallee, and partly, because that the abuses and dayly outrages, that are committed in the Pourallees, are suffered to continue without any punishment, restraint, or gaine saying: for, the Pouralle men, that in some sort may hunt and chase in their owne Pourallees, are suffered to vse the same in what sort they wil themselves, and by colour of their Pouralle hunting they vse continually to pursue their chase into the Forrest, and then the same Deere, or, any other Deere, that their dogs doe kill, they do carie away with them out of the Forrest, cleane contrarie to the Lawes of the Forrest. And this is not onely the vse and custome of those, that are Pourallee men, and that by the Lawes may hunt

Trinitatis 12.  
H. 8. fol. 5.  
per Pollard.



hunt in some sort, But also, euerie Londoner, and other strangers, that haue no lands within the Pourallees, will doe the like, which is cleane contrarie to the Lawes of the Forrest, and the suffering of these things doth cleane destroye all the Forrestes where any Pourallee is. How lamentable a thing is it to see two great huge Stags in one morning to bee hunted out of the Pourallees into the hart of the Forrest, and there killed spoyled and caried away by meane men of no accompt, without any punishment for the same, and euen, when those wilde beastes were unseasonable, and nought worth, whereas if they had beene suffered to liue untill the time of their season, they had beene meete to haue shewed a Prince pastime, and also meate for a princes dish, and this hath not beene done once or twice, but often and many times: Yea, the like facts in effect are almost vsual and common, for, it seemeth the Pourallee men with their adherents haue consented together to destroy the Forrest by colour of Pourallee hunting, which they haue almost brought to passe in the Forrest of Waltham, or at the least wise, they will doe in short time, if their hunting be suffered, as it is now vled.

But now to returne to my former purpose againe, which is, when, and how often, Pourallee men may Hunt in the Pourallee, and when they may not. It is to be understood, that no maner of person may Hunt in the Pourallees in the night, that is to say, after the setting of the Sunne, untill the rysing of the same, for, by the Lawes of this Realme, in many cases, it is accompted for a day, from the rysing of the sunne untill the going downe of the same, and likewise for a night, from the setting of the Sunne untill the rysing of the same, and such a daie is called Dies solaris, that is to say, a daie, that is accompted by the Sunne, and the reason, why it is not sufferable for any person, either Pourallee man, or other, to Hunt in the Pourallees in  
the

the night, is, because that the Kings wilde beasts may not be troubled nor disquieted of their quiet feeding and rest in the Forrest. For, it is not possible for anie man to Hunt in the Pourallees in the night, but that the same will be Ad terrorem ferarum quæ sunt infra Forestam. For, although that perhaps their dogges doe not follow the wilde beastes out of the Pourallees into the Forrest in there Chase after them, yet the noyse of their running together, and the gascing of those Deere, that are scarred and scattered out of the Pourallees into the Forrest, will disturbe the quiet of those wilde beastes, which are within the Forrest. For, the nature of the wilde beasts of the Forrest, is, to seeke their foode in the night time, when euerie body is quiet and at rest. For then they see no body stirre vp and downe to trouble nor feare them, and all the day time they keepe the Couerts being terrified with the noyse and stirring of men, so that then they cannot feede quietly, and therefore hunting in the Pourallees, or in any other places, in the night, is inhibited by the ordinances of Henry the second, called the Assises of Woodstocke in the 13. Article.

Assisa de  
Woodstocke,  
Artic. 10. 13.

Secondly, it is not lawfull for any man to Hunt in the Pourallees on the Sunday, for, that day is appointed for the seruice of almightie God, and by his lawes & appointment, that day is to be kept holy, and not to be prophaned, for, on that day all profitable businesse is forbidden to bee vsed, although that the same tend to the profit and good of the common weale, and therefore much more all vaine busines and idle pastimes, as hunting and such like, and for that cause, the Lawes of this Realme doe not accompt Sunday to bee Dies iuridicus, that is to say, to bee any day in any Court of Westminster, or else where.

Anno primo  
Eliz. see my L.  
Dyer fol. 168.  
pla. 17.

Thirdly, no man may hunt in the Pourallees in the fence month, or, as it is called, in the defence month, which month both alwaies begin 15. daies befoze midsummer, and both end  
fifteener



fifteene daies after midsomer, which moneth is the time of Fawning, for, then the Fawnes are verie young, and not able to runne, or to make any other shift, or else the Does are then great bellied, so that they are not able to runne. And if any Pourallee hunter should then chase in the Pourallee, and his dogges should follow the Deere into the Forrest, no doubt, but that the same dogges would either destroye the Does being great with young, or the Fawnes being then verie young, and neither of them both able to run, or els the coursing amongst them then, would be *Ad magnum terrorem ferarum*, and for that cause the Fence month is called *Mensis veritus*, that is to say, the forbidden month, for that the Lawes of the Forrest doth altogether forbid any hunting at all in that moneth, either in the Forrest, or in the Pourallee.

Fourthly, it is not lawfull for any Pourallee man to hunt in his owne lands within the Pourallee, euerie day, nor any oftener then thre daies in one weeke, whereof the Sunday must not bee any, and the reason is, because that the wilde beasts in the Forrest may not be disquieted, or put from their foode, and wonted layer, wher they do vse to lie at rest, with the noyse and feare of their often hunting in the Pourallees. For, the Lawes of the Forrest do altogether prohibit things that are *Ad terrorem ferarum Forestæ domini Regis*, and for that cause, a man may not newe erect any Mill in the Forrest without a licence, because the same is *Ad terrorem ferarum Forestæ*.

Fiftly, it is not lawfull for any Pourallee man to Hunt in the Pourallees, with any more companie then with his owne seruants, because that the Lawes of the Forrest doe not allow of multitudes of people to assemble themselves together onely to Hunt, for, that is *Ad terrorem ferarum domini Regis, quæ sunt infra metas Forestæ*, but yet, euery Pourallee man, that may by the Law iustifie to Hunt in his owne

owne Pourallees for himselfe, hee may also iustifie for his owne seruants to Hunt with him. For, to Hunt and kill Deere in his owne Pourallee, is a thing of profit & of pleasure also. And it is held for a learning in the Lawes of this Realme, that he, that hath a licence or an interest of profit, hee may iustifie for himselfe and for his seruants also: But he, that hath but a licence or interest of pleasure onely, he cannot iustifie for his seruant, but onely for himselfe, as it doth appeare in 13. H. 7. note the difference. But yet hee, that may iustifie to Hunt with his seruants, he cannot iustifie to Hunt with euerie other person.

Term. H. 13.  
H. 7. fol. 13.  
pla. 2.

Sixtly, no manner of person may Hunt within the Pourallees of the Forrest, within fortie daies next after the king hath made any generall hunting in any Forrest adioyning to such Pourallees, because in this case, the wilde beastes of the Forrest doe not come into the Pourallees of their owne freewill, but because they are forced thereunto, with strong hand, and with the noyse of blowing of Hornes, and with a multitude of people, so that, for feare of being slaine, they are driuen to flie into the Pourallees for their succour and refuge. And therefore, the Lawes of the Forrest do giue vnto all those wilde beastes, which in such sort are forced to flie into the Pourallees for refuge, a firme peace and free Protection to remaine there, during the space of fortie daies, without any hunting, chasling, or other harme, in which time the Law intendeth, that either those wilde beastes will returne to the Forrest againe of them selues, or else that the Raungers will rechale them into the Forrest againe with their Hounds, and therefore they haue that time of libertie giuen by the Lawes of the Forrest. And therefore in euerie Charter and graunt of the Pourallees, that the King doth make vnto any Shire or Countie, of such lands, as were disafforrested, the King doth alwaies reserue vnto himselfe, fortie dayes of free libertie for his wilde beastes of the Forrest,



rest, that then were in the Pourallees, to returne backe againe into the Forrest, and also for his *Raungers* to rechase them into the Forrest againe, as you may perceiue by the perusing of the Charter graunted for the Pourallees of the Forrest of Winsor in the Countie of Surry.

Seuenthly, it is not lawfull for any Pourallee man to Hunt in the Pourallees that are bordering vppon any Forrest, in which the King doth minde to make anye generall hunting, after Proclamation hath beene there made, by the space of fortie daies: for, after such Proclamation made, no man shall Hunt within seven miles of the borders of the Forrest, nor within the Pourallees, within fortie dayes next before such generall Hunting proclaimed, because that, all that time, the wilde beastes of the Forrest may not by any meanes bee disquietted of their rest, to the intent that the King may take the full view of them, where they doe lie and make their secrete abode.

The eighth is, that no Pourallee man, nor, other, may hunt in the Pourallee, during the time that any keeper or Forrester is in seruing of any warrant within any part of the Forrest, that is neere adioynning vpon the Pourallees nor during the time, that any Noble man is Hunting there, because that such Hunters in the Pourallees may not disturb the game in the Forrest at such times, as they are hunting there, if they haue notice of any such Hunting, or, of seruing any such warrant.

For the ninth, which is against forestalling, it is to bee vnderstood, that, although a Pourallee man may Hunt and chase the wilde beastes of the Forrest being within the Pourallee, in some sort, as before hath beene declared, yet hee may not forestall, nor, forestet those wilde beastes with Dogges, Bowes, Gunnes, nor with any manner of ingine, to kill, or stoppe them from their free passage to the  
Forrest

Forrest againe, neither may any man make any salteries  
or leaping places out of the Forrest into the Pourallees,  
where any Deere may easily leape in, but cannot returne  
backe againe, but that they shalbe killed thereby for want  
of passage, and all such forrestalling is forbidden by the ordi-  
nances of Woodstocke articulo 13.

Affisa de  
Woodsto. k  
artic. 13.

And last of all, it is not lawfull nor meete for any  
Pourallee man, nor other, to Hunt nor Chase any un-  
seasonable Deere, as Deere of Antler in the Winter,  
nor Does and suchlike Winter Deere in the Summer,  
neither in the Pourallees nor else where, for, such beastes,  
when they are out of season, are altogether unkindly,  
and not meete for any man of reckoning to eate, for  
then, their flesh is not good nor wholesome, and besides  
that, they are so pooze, that they can not runne, nor make  
any flight from a Dogge, whereby to escape into the  
Forrest againe, and therefore the Lawes of the For-  
rest, regarding their pooze and unable estate, doe altoge-  
ther prohibit the killing, Chasing, or, Hunting of them  
in the Pourallees, or else where, during the time of their  
unseasonableness. But now, heere it may bee asked me  
by some men, How it doth appeare, that all these orders  
and lessons for the Pourallee man, are Law, and warranted  
by the Lawes of this Realme, vnto which question or de-  
maund, I answer thus.

That euen from the time, that Pourallees had their  
first beginning, all these things haue beene taken for  
Law, and therefore they haue beene executed and vled  
as Law, and all the Iustices in Eyre of the Forrest, and  
all those learned men and Judges, that haue giuen the  
charge in their Iters of the Forrest, for them, haue al-  
wayes giuen these things in charge to bee inquired of  
by the Ministers of the Forrest, as it doth appeare in all the  
charges.



Vide the Justice fees  
that haue  
beene kept  
for the Forest  
of Waltham  
in the time of  
Ed. 2. & Ed. 3.

charges of the Iustices in Eyre of the Forrestes, that haue beene since the time of William Lord Vescye. Secondly, that the offenders, and such, as haue beene trespassors in hunting in the Pourallee contrarie to any of these ordinances aforesaid, haue beene punished for the same, as it doth appeare by the Assises and Iters of the Forest of Waltham in the Countie of Essex, holden in the time of Edward the second, and Edward the third, which are now to be seene in master Angers Office in the Exchequer, whereby it doth appeare, that, if these ordinances had not beene good Law, and warranted by the Lawes of this Realme, then the offenders should not haue beene punished so sharply for the breach of them, as they haue beene heretofore. And thirdly, these things are such iniuries and annoyances to the wilde beastes of the Forest, that, if there were not Lawes of the Forest to repressse them, then the kings Forests could not indure nor haue any continuance.

### II How farre a Pourallee man may pursue and follow after his Chase.

**H**ow farre a Pourallee man may pursue and follow after his Chase in his hunting in the Pourallee, is needfull here in this place to bee declared, for, a Pourallee man may not Hunt in euerie mans lands within the Pourallee at his pleasure, but in his owne lands onely, and therefore, if any Pourallee man shall at any time find the wilde beastes of the Forest in his woods or lands, that hee hath within the Pourallee, being wandred out of the Forest into the Pourallee, then they being in his owne grounds, hee onely hath propertie in them Ratione soli, against euerie other man, sauing against the King, so that, if hee can slay them by chaling, without any forestalling, before that they doe recouer their sanctuarie of peace, which is the Forest, then,  
such

such wild beasts are absolutely the proper goods of such Pourallee hunters, & not the kings, neither hath the king any interest or property in the: but, if such wild beasts, being so chased from the Pourallee, do recover the Forrest, so that they be infra filum Forestæ, within the lists or bounds of the Forrest, or, within the threed (as they call it:) of the Forrest, then, they are absolutely the kings wild beasts again, so, so soone as ever they be within the limits and bounds of the Forrest, then such wild beastes are said to be In statu quo prius, that is, in such degree as they were at the first, before that they went out of the Forrest: So that such wild beastes, when they do chaunce at any time to wander out of the Forrest into the Pourallee, yet they are in some sort the Kings wild beastes, and the King hath property in them still, for although that they be out of the Forrest, and within the Pourallee, yet the king hath property in them against every man, saving against the owner of those lands, in which they the are, so that every Pourallee mā, that may lawfully hunt in the Pourallee, must first make his Chase in his owne Pourallee, which is in his owne lands, which he hath within the Pourallees, where he hath lawfull interest and property in the wilde beastes, so long as they are in his lands, and therefore, if he do first begin his Chase in his owne ground, where he hath property in those wild beastes, then by reason of that property, he may pursue & follow his Chase through every other mans woods and lands, either within the Pourallees, or els where, so that he do not enter into the kings Forrest, nor into the Forrest, chase, parke or warrē of any other mā, which are places especially privileged by the law, that no mā may enter into but y owners therof onely, & although his dogs do, by such Chase, kill the wild beasts or wild beast in the woods or lands of any other man, so y the same be not in any especial privileged place, yet he may still follow his Chase, & take and haue the thing

Vide in Termino H. 13. H. 7. f. 16. plac. 14. & in Termino P. 7. H. 6. fo. 36. placito 41. Que le officer del roy poiz loy almer rechaier les beaſts ſauage, q ſont alles hors del Forrest, tanq al Forrest le Roy.



Mich. 12. H. 8.  
fo. 10. a. line a  
2. and 3.

so chased & killed, by reason of the first proprietie, in respect of the soyle, wherein they were, when he began his chase, as it doth appears by Maister Brooke in 12. H. 8. where it is said, that, if I do find a Fesant in mine owne landes, and I do let my Falcon flie at the Fesant, I may then pursue and follow my flight into any other mans land, by reason of the first proprietie that was in me in respect of the soyle, and if my Faulcon do kill the same Fesant in any other mans lande, I may enter into the same land, and take and haue the same Fesant by reason of my first proprietie, and pursue in flight with my Hauke, and the possession of my Hauke shalbe said a possession in me: And in that case I shall not be punished by an action of Trespas for the taking and carping away of the Fesant, but onely for the entre into his ground, as it is there holden. And in like manner, it is of all wild beastes of the Forrest and Chase. And if a Pourallee man do begin his Chase in his owne landes within the Pourallee after any wild beast of the Forrest or Chase, and the same wild beastes do make towards the Forrest, such a Pourallee man may pursue and followe his Chase vsque ad metas Forestæ, euen vnto the very boundes of the Forrest, but he may not enter into the Forrest, for, when he doth perceauie, that the wilde Beast or wilde Beastes haue recovered themselves within the boundes of the Forrest, then he must repeale and call backe againe his Dogges, or, as the old Forresters do terme it, he must with his Horne, as lowde as he can, blowe a rechale, id est, repellere vel retorqueré Canes, that is to call or drawe backe againe his Dogges from following of their Chase anie further. And, if that such a Pourallee man in his Hunting, do not presently, after that the wild beast hath recovered himselfe within the boundes of the Forrest, repeale, rebuke, and call backe againe his Dogges from their chase, then, if the same  
Dogges

Dogges do chance to kill the wilde beasts within the Forrest, the owner of the same dogges is a trespasser of the Forrest, and is to bee punished for the offence of his dogge, although that hee doe not come within the Forrest himselfe, because that he did not call his dogge backe againe: but, if he had called his dogge backe againe, and yet after such calling backe of his dogges, the same dogges still following their Chase, doe kill the wilde beastes within the Forrest, in this case, such a Pourallee Hunter is not to bee punished as a trespasser of the Forrest, because he hath done his endeavour to call backe againe, and to restraine his dogges from their coursing in the Forrest, As it doth appeare in 43. of Edward the thirde, in the case of the Earle of Arrun'el, where it is holden, that, if a man haue lands sowne with Cozne, adiopning vnto a free Chase, or Forrest, if the wilde beastes doe come out of the Forrest or free Chase, into those lands so sowne with Cozne, and hee, that hath the lands so sowne with Cozne, doth chase those wilde beastes with his dogges, and before that those dogs do enter into the Forrest or free Chase, he doth repeale and call them backe againe, then, although that the same dogges doe enter in the Chase or Forrest, and doe there kill the wilde beastes, yet hee is not to be charged as a trespasser for that killing in the Forrest or Chase, Ergo, if such a Hunter doe not call backe his dogges, before that they do enter into any Forrest or Chase, if they doe chase or kill any wilde beast there, he is a Trespasser, and shalbe charged as a trespasser for the Hunting and chaling of his dogs therein. And therefore by the same reason, much more shall they be accompted trespassers, that doe Hunt in the Pourallees, and doe not repeale nor call backe their dogs at all, but doe follow them into the Forrest, and there animate and encourage their dogs to Hunt and slay the wild beasts, yea & do also carie the Deere away with them, most foolishly affirming, that they may lawfully

Hilla. 43. E. 3  
fol. 8. pla. 23.



T. Paschaz 38.  
E. 3. fol. 10. b.  
the first Case.

Vide M. 12.  
H. 8. fo. 12. 3.  
linea 23.

H. 43. E. 3. fo.  
8. plac. 23.  
P. 38. E. 3. fol.  
10. b. Case 1.

do the same. And to proue the auctorithy of this case of the Earle of Arrundels, the more stronger to be law, It is holdē in 38. E. 3. that if a mā do find a Fesant in his owne ground, & doth there let his Falcon flie at the same, & he flieth with the Fesant into a Warren, which is a priuiledged place for birds of Warre, & there doth kill the same, yet the owner of the Falcon, in this case, shal not haue the Fesant, although that his Hauke did kil the same, but the owner of the Warren is to haue it, but if such killing of the same Fesant were not in a Warren or other especiall Priuiledged place, then the law were otherwise, as it is holdē by D. Brooke in 12. H. 8. f. 10. for thē the owner of the Falcon were to haue the Fesant, note the differēce: but yet this case doth also proue, that so soone, as the Fesant, which is wild of nature, was within the boundes of the Warren, the same was the owners of the Warren again, & therfore the killing of y same within the boundes of the Warren, doth not gaine any other man, thē the owner of y same, any property therein, neither should the owner of the Falcon in that Case suffer his Falcon to flie into the Warren, to kill the same Fesant, if he could any way let or hinder the same, but yet here note, that, aswel by the foresaid Case of 43. E. 3. as also by the Case of 38. E. 3. that, if any such wild beasts be slaine & killed within the meetes & boundes of the Forrest, they do belōg onely vnto the king, or the owners of such Forrests, Chases or Warres, & not vnto thē, that do so kil thē. For, if the dogs of a Pourallee man do folow a Deere in their chace towards the Forrest, & befoze that the same dogs cā fastē vpo the Deere, or, that y owner of the same dogs do repeale thē back againe frō their Chase, the Deere doth recouer a cōmon high way, or a riuer, which high way or riuer is a meere of y Forrest, & there being in the same meere, y dogs do fastē vpo the Deere & kill him, in this case, y K. or the owner of the Forrest, is to haue y deere, & not the Pourallee man, that was owner of the dogs, for, al the.

the meres and bounds of the Forrest are the kings, & they are parcell of the Forrest, for by the new ordinances of the Forrest made in Anno 6.E.1. It is established for a Law, Quod secundum assisam forestæ, omnes metæ forestæ sunt integræ domino regi, that is to say, that, all the meres and boundes of the Forrest, are wholly the Kings, although that they do stand in another mans land or soyle: And therefore they are parcell of the Forrest, so that, if any man do kill any wilde beast within any high way, or riuer, which is a mere or boundarie of the Forrest, he doth kill the same within the Forrest, for, the same is parcell of the Forrest, for the King is to haue those meres and boundaries wholly as parcell of the Forrest. And it doth appeare in the Assises of Pickring in Anno 10.E.3. that the Abbot of Whirby, did kill a Hart within the riuer of Derwent, which was a mere and one of the meetes of the Forrest of Pickring. The Abbot and his company were indicted for the same, Quia ceperunt vnum ceruū in aqua de Derwent, quæ est merchia forestæ, & venationem illam secum asportauit. And for this fact, he made his fine and raunsome, and was bound to the good abearing of the Forrest.

Assisa & consuetudines forestæ Ann. 6. E. 1. art. 19.

Assisa forestæ de Pickring An. 10. E. 3. fo. 6. fo. 41.

12 When a Purlicu man may follow his Chase into the Forrest, and there take it, and when nor.

**A**nd yet, at some time & in some Cases, a Pourallee man may lawfully pursue and follow his chase into the Forrest or Chase of the king, and there take, haue, & carrie away the wild beast or other thing so chased and killed within the boundes and meetes of the Forrest. For, if a Pourallee man do find the wild beastes of the Forrest in his landes within the Pourallee, and do put on his Dogges after those wild beastes, and in chasing of them towards the Forrest,



the Dogges do fasten vpon one of those wild beasts, before that he be within the bounds of the Forrest, and the wild beast by his force and strength doth draw the Dogges still hanging vpon him into the Forrest, and beyng a good way within the Forrest, the same Dogges do kill the wild beast, in this Case, by reason of the first proprietie that such a Pourallee man had in the wild beast *Ratione soli*, and also by the pursuwt and possession of the same by his Dogges, before that he entred into the Forrest, he may follow his Chase into the Forrest, and there take, haue, and carrie away the same, because he was actually possessed of the same wild beast, by his Dogge beyng his seruant, as of his owne proper goods, before that the same wilde beast did recouer the Sanctuarie or Priuiledge of the Forrest againe.

See the whole  
Case in Ter-  
mino Mich.  
22. H. 8. f. 10.

But it seemeth by the Case in 12. H. 8. that if a Pourallee man do begin his course, and do let slip his Dogges at the wilde beastes in the ground of an other man within the Pourallee, and not in his owne ground, which is a wrong vnto the owner of those grounds in the which the wilde beastes were, that, in that Case, if his Dogges do fasten vpon the wild beast, before that he do get within the boundes of the Forrest, and the wilde beaste doth draw the Dogges into the Forrest, and there kill the same, in this Case, such a Pourallee man may not enter into the Forrest, nor haue, nor take the wilde beast so killed or Chased, because that his first pursuwt and Chase beganne by a wrong, for that he neuer had any interest or proprietie in the same wilde Beast *Ratione soli*, to make such a course, and therefore in this Case, although that he do not come within the boundes of the Forrest himselfe, yet he shalbe accompted a Trespasser of the Forrest, for that his Dogges did enter into the Forrest, and there killed a wild beast, himselfe hauing no lawfull interest or right  
of

of Chasing, for, in such a Case, he can not iustifie his Hunting, to say that he is a lawfull Pourallee man, and that he found the wilde beastes in his owne landes within the Pourallee &c. but the owner of the land, in the which the wild beasts were found, might haue made this iustification very well. And the Case that is put by Maister Brooke in 12. H.8. fol. 10. is, where a man doth let his Faulcon flie at a Fesant, which he doth finde in his owne ground, and in that Case, it is said, that he may purslew his flight after the Fesant into an other mans ground, and that, although that his Faulcon do kill the Fesant in another mans ground, yet the owner of the Faulcon shall haue the Fesant, and not the owner of the ground, in which the same is killed, and as it seemeth, the reason thereof is, because of the first propertie that was in him Ratione soli, for that he beganne his first flight at the same Fesant beyng in his owne ground, but if a man doo find a Fesant in an other mans ground, and there doo lett his Faulcon flie at the same, which Faulcon doth also kill the Fesant in an other mans ground, in this Case, the Lawe seemeth to be otherwise then in the Case put by M. Brooke, for in this Case, the Law is taken, that the Fesant doth of right belong to him that is owner of the ground in the which the same was killed, for no man shall take the benefit of his owne wrong, & here in this Case, the owner of the Falcon began his first flight at the Fesant by a wrong, & this may be gathered to be law by the same reason of the said Case put by M. Brooke, & if any man do make a flight at a Fesant in an other mans ground, and pursue the same vntil he come to his Falcon which hath killed the Fesant in the ground of a second person, where finding the same he taketh the Fesant away with him, in this case, if the owner of the ground, in the which Fesant was killed, do bring an action of trespass against the owner of the falcon, for breaking &

See the Case  
in Termino.

H. 43. E. 3. fo.  
8. P. 23. and  
consider well  
the manner of  
the iustifica-  
tion of the  
plee and see  
38. E. 3. fo. 10.  
b. first Case.

H. 13. H. 7. f.  
16. plac. 14.

P. H. 6. f. 36.  
plac. 41.



entring into his close, and for taking away of the Fesant, the owner of the Faulcon can not iustifie his entree into an other mans ground to make a flight there, nor the purselit of his flight, and taking away of the Fesant, as he might haue done, if he had first made his flight in his owne ground, as in the Case put by D. Brooke.

13 Of the Ordinances and Lawes of the Purlicus,  
and of their first beginning.

**T**he Ordinaunces and Lawes of the Pourallees, may more properly be called the Lawes of the Forrest, for, although that they chiefly respect disorderly Hunting and Trespasses, that are done in the Pourallees, yet the whole scope of them tendeth onely to the preseruacion and continuance of the Forrest, and those ordinaunces and lawes for the most part are no other, but the Common lawes of this realme, or els grounded vpon the reason of the Comon law, as already before hath been declared. The first beginning of these orders and lawes for the Pourallees, was in the time of king H. 2. for, after that he had made many great afforestationes in sundry places in this realme, and some few disafforestationes, yet, although that he did disafforest the places, in which the wild beasts then were, he had such a speciall care of the wild beasts of Venerie and Chase, that, to thend to preserue them still, he made certaine lawes & ordinaunces, which haue relation aswell to those places so disafforested, as to the Forrests themselves wherein the wild beasts are, as it doth appeare by the ordinaunces & Assises of Woodstock hereafter in the 3. part of this booke declared, and since the time of king Henry the third, and the graunting of Carta de Foresta, that all the newe afforestationes, that were made by king Henry the secod, king Richard the first, & king Iohn, were disafforested by the perambulations, yet

See the Assises of H. 2. called the Assises of woodstock,

yet by reason of the great plentie and stoze of wilde beastes both of venerie and chafe, that then were in euerie Forrest within this Realme, which had vsed and accustomed of long time to haue their haunt and laier in those places newly disaffozested, it was a thing almost impossible altogether to restraine them thereof, wherefoze there were then certaine Officers called *Rangers*, appointed to attend and looke vnto all those places newly disaffozested, which, because of the perambulations, were then called Pourallees after the French word, which Officers by their care and diligence did dayly as much as they could, restraine the wilde beastes of the Forrest of their repaire and haunt into those Pourallees. And when by any chance the wilde beastes of the Forrest, either being forced or driuen out of the Forrest into the Pourallees, or else comming into the Pourallees of their owne free will, the *Rangers* of those places were wont to cast off their Hounds in the Pourallees, to driue these wilde beastes backe againe into the Forrest. And also for the better preservation of Forrestes, and of such wilde beastes so resorting into the Pourallees, these Lawes and orders before recited were first deuised, & by those Officers, called the *Rangers*, carefully looked vnto and put in execution. And so from the first beginning of Pourallees, vntill this day, these Lawes and ordinances haue beene vsed and giuen in charge to be inquired of by the Iustices in Eyre of the Forrest at euerie iudiciall seate, where also the offenders therof haue beene from time to time punished.

14 How, and where, offences in the Pourallees  
shalbe tried and punished.

**A**ND for as much as all such trespasses and offences, as are done and committed within the Pourallees, contrarie to any of these orders and Lawes aforesaide, are accounted



compted trespasses and offences of the Forrest, for that they are iniuries and wrongs done to the wild beasts of the Forrest, therefore the foresaid Officers called *Rangers*, both by their Office and oth, are to looke vnto all such things, and when they shall finde or vnderstand of any such offences and trespasses, they are as wel to present the same offence, as also the offenders therein, at the next Court of Attachments, which shalbe holden for the same Forrest next adioyning vnto such Pourallees, or else at the next Court of Swanimote or Justice seate, which shall first happen to bee kept for the same Forrest, to the end that all such trespassers & offenders in the Pourallees, according to the qualitie of their offences may receiue a lawfull triall at the next Court of Swanimote, before the Forresters, Clerderers, Regarders, Agistors & other Ministers of the Forrest, in such sort as by the lawes and ordinances of the Forrest, for all other offences and trespasses, that are committed and done within the Forrest, is ordained and appointed. And after such lawfull triall & conviction had against such offenders & trespassers in y Pourallees, they are to be bound with good pledges & suerties vnto the good behauior of the Forrest, vntil the next Justice seate, which shalbe holden for the same Forrest, At which time they are to be punished by the discretio of the Lord chiefe Justice in Eyre of the Forrest, by imprisonment, ransome, or fine.

#### 15 Of the kings Officers in the Pourallees.

**A**nd because that the Pourallees, as aforesaid, was once Forrest, & in some sort is Forrest still, therefore the king of necessitie must haue certaine Officers there, that may attend vpon the same places, & take the charge of the preservation of the wild beasts therein, for, otherwise these Lawes and orders could not bee executed, & then the Forrest could not indure, but would be destroyed & spoyled by y Pourallees  
in

in short time, & for that cause *Rangers* were first appointed, for a *Ranger* is no Officer in the forest, but yet a chiefe officer of y<sup>e</sup> Forest or to the Forest: those, y<sup>e</sup> are officers within the Forest, haue charge of the Clerk & the Clerkson of y<sup>e</sup> Forest, but a *Ranger*, that is an officer of the Forest or to the Forest, but not within the forest, hath no charge of Clerk but only of the Clerkson that cometh out of the Forest into his charge, which is into the Pourallee, which Clerkson he is to safcondukt backe againe into the forest out of y<sup>e</sup> Pourallee: There are some forests within this realme, y<sup>e</sup> had neuer any enlargement, by any new afforestations of any of the foresaid kings, & therfore those Forests at this day haue no Pourallees, because ther was not any disafforestations of any lands that were parcell of y<sup>e</sup> forest. And therfore there are not any *Rangers* belonging to those Forests, because there are no Pourallees. And, as it seemeth by the case of Anno 7. H. 6. in such forests, wher ther are neither Pourallees, nor *Rangers*, to rechase the deere & wild beasts, that do wander out of the Forest, backe againe into the Forest, there the foresters may follow after their Deere out of the Forest, and chase them backe againe into the Forest, But, where Pourallees and *Rangers* are, there the foresters can not do so, vntil that such foresters doe follow them with fresh pursute within their view, note the difference, and see the case of Anno 7. Henry the sixt aforesaid, and also 13. H. 7. fol. 16.

Plaf. 2 Anno  
7. H. 6. fol. 36.  
pla. 41.  
Hilla. An. 13.  
H. 7. fol. 16.  
p. 14.

16 Of a *Ranger*, his oth, authoritie and office.

**A**nd these foresaid Officers, called *Rangers*, being officers of the Forest, made & appointed by the king, by his letters patents vnder the great seale of England, to attend vpon the Pourallees of the Forest, for the better preservation of the Forest and the wilde beasts therein, vnto which Officers, to the end that they should with more care & diligence the better discharge their Office in that behalfe, the  
king



King doth also allow vnto euerie one of them a yearely fee of xx. l. or xxx. l. by the yeare, to be paide out of the Exchequer, and certaine fee Deere both of Red and Fallow, vnto euerie one of them out of the Forrest. The office of a *Raunger* doth chiefly consist in raunging and walking of the Pourallees, and in safe conducting of the wilde beasts, that he shall there find, into the Forrest againe, and also in presenting of all offenders and vnlawfull Hunters, and of their trespasses and offences, which they haue done within the Pourallees being within the libertie of the *Raungers*, so that the whole Office and authoritie of a *Raunger* doth consist in these thre things, viz.

- 1 Ad ambuland' quotidie per terras deafforestatas, ad vidend', audiendum, & inquirendum, tam de malefactis, quā de malefactoribus in Balliua sua, that is, to walke and *Raunge* dayly throughout all the Pourallees, and the land disafforested, to heare, see, and inquire, as well of all offenders, as of their offences, that are any way done or committed, within his Raunge or libertie.
- 2 Ad refugand' feras Forestæ tam veneris quam chaceæ, de terris deafforestatis, in terras afforestatas, which is, to walke and raunge the Pourallees, and to safe conduct the wilde beasts out of the Pourallees into the Forrest againe.
- 3 Ad presentandum omnes transgressiones Forestæ in terris deafforestatis factas, ad proximas curias illius Forestæ tentas, to present all the trespasses & offences of the Forrest that are committed and done by Hunting in the Pourallee, at the next Court of the Forrest, to the end that the King may bee certified, what wild beasts haue bene killed in y<sup>e</sup> Pourallees.

And to the intent, that euery such *Raunger* should bee the more carefull and willing to execute his Office of a *Raunger*ship

gerthip, according to the Lawes in that behalfe prouided, The lawes of this Realme haue appointed, that euerie such Officer shalbe sworne & take a corporall oth vpon the holy Euangelist to do the same, the tenor of which oth is, as followeth.

The oth of a Raunger of the Forrest.

**Y**ou shall truly execute the Office of a Raunger in the Pourallees of W. vpon the borders of the kings Forrest of Waltham, you shal recharge and with your hound driue backe againe the wild beasts of the Forrest, as often as they shall raunge out of the same Forrest into your Pourallees. You shall truly present all unlawfull Hunting, and Hunters of wilde beasts of venerie and chase, as well within the Pourallees as within the Forrest. And those, and all other offences, you shall present at the Kings next Court of Attachments or Swanimote, which shall first happen, so helpe you God. Here note that in this Oth there is contained the whole Office of a Raunger.

17 Whereof called Raungers.

**T**his word *Raunge*, in some sence doth signifie to walke by & downe in a certaine appointed order, & therefore the Regarders of the Forrest, when y they do walke through their whole Regard, to see & view the trespasses & offences that are done in the Forrest, they are said to make their *Raunge* that is to say, their Walke, through their whole libertie, in such order as by the Law they are appointed: for this word *Rang* in French, is, *Ordo*, series, or *Striga*, in Latine, which doth signifie an Order, a Row, or a Range, for y Frenchman doth vse to say *Va de Range*, which is, *Incede ordine*, or, in seriem te coge, which is, goe in order, or, keepe thy order in going. And this word *Ranger* or *Arranger* in French, doth signifie, to range by and downe in an order, or to walke by and downe in a certaine appointed order.

And



And because that a *Raunger* of the kings Forrest is an Officer, especially appointed by the King, to walke the Pourallees, as aforesaid, according to the Lawes and orders thereof unto him prescribed, for the better performance whereof he is also swozne, and bound by his oth, Therefore verie aptly and properly, such an Officer may be called a *Raunger*, according to the signification of the French word, which is an Officer or walker, that doth walke the Pourallees or lands disafforested, according to such orders and Lawes, as hee is appointed, And for this cause hee is called a *Raunger*.

F I N I S.









## A Table shewing the particular matters of this Booke.

### A

**A** Buse, and how a man may abuse his licence or authoritie in hunting. fol. 112. Sect. 7. How he, that abuserh his authoritie, shalbe a Trespasser ab initio fol. 112 Sect. 7.

Ad quod damnum, and in what cases the same is to bee graunted by the Iustice in Eyre. fol. 42. b. fol. 43. a. Ad quod damnum, and what things are to bee inquired of by the same. fol. 43. a. b.

Agistment, and what the same is. fol. 61. Cap. 11. The time of Agisting of the kings woods and lands. fol. 62. Cap. 11. Who shall Agist the kings woods and lands. fol. 64. Agisting of other mens woods and lands, and the time thereof. fol. 65. Cap. 11. Agisting of the lands and woods of other men, and who shall doe the same. fol. 67. b. Cap. 11. Sect. 5. Agisting of the beasts of forreners within the Forrest in the Kings woods or lands, the same beasts are forfeited. fol. 65. a. Wherefore so called Agistment. fol. 68. That it is finable for any inhabitant to Agist the Cattell of forreners within the Forrest. fol. 65. a. b.

Affarts of the Forrest. fol. 48. a. cap. 9. What shalbe said to be an Affart or land Affarted. fol. 48. Cap. 9. Sect. 2.

The punishment of him, that doth make an Affart of the Forrest in his owne woods or lands. fol. 49. b. Sect. 3.

The punishment of him, that doth make an Affart in the Forrest in the Kings woods or lands. fol. 52. a. Sect. 3.

Whereof the same taketh the name of Affart. fol. 52. b. Sect. 5.

Antiquitie of Forrests, and their first beginning. fol. 5. a. b. fol. 12. Antiquitie of Hunting and Chasing of wilde beasts. fol. 28. Cap. 4. Sectio. 7.

Aa

Beasts



## A Table.

### B.

**B**eastes of Uenerie, or, beastes of Forrest, and which they are. fol. 21. Cap. 4. Sectio. 1. Beastes of Chase, and what beastes they are. fol. 22. a. Sectio. 2. Beastes and foules of Warren, and which they are. fol. 22. b. Sect. 3. Beastes of the Forrest, and beastes of the Chase, and their difference in nature. fol. 23. Cap. 7. Beastes not commonable within a Forrest, forfeited. fol. 87. b. fol. 88. a. Beasts wilde of nature, and of their proper termes, ages, and seasons. fol. 25. b. Cap. 4. Sectio. 5. Bucke and Dooe, and their proper names, degrees, ages and seasons. fol. 25. 26. Sectio. 5. Brousewood for the Deere in winter. fol. 42. b.

### C.

**C**anutus his graunt that euerie man shalbe worzhie of Call such wild thngs, as they can stay within their own ground. fol. 12. b. Chase, and how the same is made. fol. 9. & 10. Cap. 2. Sect. 2. That euerie Forrest doth containe in it a Chase royall. fol. 5. Cap. 1. Sectio. 5. Which are beastes of Chase fol. 22. a. Sectio. 2. Certificate, and what certificate ought to be made in a writ of Ad quod damnum. fol. 43. b. Claymes, and what claymes allowed to be good with in the Forrest. fol. 81. a. b. Couerts, and that euerie Forrest must of necessitie haue great Couerts within it. fol. 6. a. And what shalbe said to bee Couert of the Forrest. fol. 40. b. Courts of attachment and Swanimote, incident to euerie Forrest. fol. 20. a. b. Conie and Hare, and their proper termes of Art. fol. 26. a. b. Common and Commoners within the Forrest. fol. 77. a. How Commoners are to haue Common within the Forrest by the common Law. fol. 78. a. What Common is  
and

## A Table.

and whereof it taketh the name of Comon, fol. 78. Sectio 2. How many sorts of Comon, and in what sort the same is to be vled. fol. 78. f. 79. Who ought to haue Comon within the Forrest, f. 79. b. Sectio 4. And who ought not, fol. 82. Sect. 5. Surchargers of the Comon, and who is a Surcharger. fo. 82. Sect. 7. And how he shalbe punished. fo. 85. a

Cutting downe of woods or bushes, and digging of turfes within a Forrest, & how the same is to be punished. f. 34. b

### D.

**D**ifference betweene a Forrest and a Chase. fo. 6. b. fo. 7. a  
Distruction of woods and couerts. fo. 45. b.

Distruction and Wast, and their seuerall natures and differences. fol. 45. b. fo. 46. a

Default cause of Seyler. fo. 81. b

Drifts of the Forrest. fo. 85. a b. Cap. 15. Sectio. At what time of the yeare, Forrests shalbe driuen. fo. 87. a Sectio 2. How often in euery yeere, a Forrest shalbe driue. fo. 87. a Sectio. 3. For what cause, the Forrest shalbe driuen. fo. 87. b. Sectio 4. By whom, Forrests are to be driuen, fol. 88. a In what maner, the drifts of the Forrest are to be made. fo. 88. b. Sectio. 6.

Dogges, and what dogs shalbe expeditated within a Forrest. fol. 92. b. Sectio 6. By whom dogs are to be Expeditated fo. 94. b In what maner, such dogs shalbe expeditated fo. 95. b In what places dogs are to be expeditated. fo. 96. Sectio 9. Dogs vnerpeditated, & what forfeiture for the same, and who shall pay the forfeiture. fol. 97. b

### E.

**E**xplanation of the definition of a Forrest, and of euery part thereof, fol. 2. Cap. 1. Sectio 3.

Expeditating, and what the same is, fol. 100. Sectio 12.



## A Table.

Expeditating of dogges, and what forfeiture for not doing of the same. fol. 98. a. See Dogges.

### F.

**F**orrest, and what a forrest is, and the Definition thereof. fol. 1. Cap. 1. Sectio 1. Whereof a Forrest doth consist. fol. 1. Cap. 1. Sectio 2. That euery Forrest must haue meres and boundaries to inclose the same. fol. 3. Cap. 1. Sectio 3. That the markes, meres, and boundaries of a forrest are vnremoueable. f. 3. b. Cap. 1. Sectio 3. The deuision of the old Forrests from the new by the Perambulations. f. 4. a. Cap. 1. Sectio 3. That all the boundaries of all Forrests, wherof any part hath beene disafforrested, are knownen by matter of record. fol. 4. & 5. Cap. 1. S. 3. That al auncient Forrests, which haue neuer beene enlarged, haue their bounds knownen by matter of prescription onely. fol. 5. Cap. 1. Sectio 3. Of the antiquitie of Forrests. f. 5. a b. fol. 15. a b. That euery Forrest must of necessitie haue beasts of Venery or Chase remaining within the same. fol. 5. b A Forrest doth comprehend in it a chase, a parke, & a warren. fol. 7. How a Forrest is made, and what doth make the same a Forrest. f. 9. cap. 2. Sectio. 2. Forrests that are auncient, and of their first beginning. fol. 11. b and fol. 12. a In what places, Forrests ought to be made. fol. 12. b. Forrests ought to be made in the wooddy countreies. f. 13. a Whereof the same taketh the name of Forrest. f. 14. a b. Who may make a forrest. f. 16. a cap. 3. Sect. 1. Who may haue a forrest. fol. 16. b Sectio 2. That a subiect may haue a forrest. fol. 16. 17. How the same may be graunted by the king to a subiect to remaine a forrest still in his hands. f. 18. a Sectio 3. That a forrest granted by the king to a subiect, shalbe but a Chase in the hands of the grantee. fol. 19. a That euery forrest doth comprehend

## A Table.

prehend in it a chase Royall. fo. 21. b. 22. a  
Foules of warren, and which they are. fo. 22. Sectio 3.  
Fox, and of his proper termes, degrees and ages. fo. 26. a  
Fat of all kind of wild beasts, and the proper termes therof.  
fol. 27. b  
Forfeitures for offending in speciall vert. fo. 37. a Forfeiture  
and punishment of him that doth commit a wast of  
the Forrest. fo. 46. b Sectio 5. Forfeiture and punish-  
ment for Allartes. fo. 48. See the whole chapter of Al-  
larts. fo. 48. Forfeitures for wast, See wast. fol. 44.  
Forfeiture for Purpresture, See Purpresture fo. 53. b.  
cap. 10.  
Fence moneth, or defence moneth. fo. 72. Fence moneth  
the time of fawning. fo. 72. a b c How long the Fence  
moneth doth last. fo. 73. When the same doth begin &  
end. fo. 73. a b At what time the Fence moneth had his  
first beginning. f. 73. a b Fence moneth, for what cause  
first ordeined & appointed. fo. 74. b How euery officer  
of the Forrest ought to behaue themselves during the  
Fence moneth. fo. 74. b fo. 75. 76. That no man ought  
to wander vp and downe in that time within the Forrest  
fo. 76. Whereof so called Fence moneth f. 76. a b  
Fee deere in a Forrest, and what remedy to come by the  
same. fo. 110. b. Sectio 6.  
Fresh sute, and, Heue and Crie after offenders in the For-  
rests. fo. 120. Sectio 4.  
Fines for Trespasses in Forrests at will and pleasure of the  
king. fo. 47. a  
Fowre men and the Reue. fo. 34. b

## G.

**G**reene hew, and what the same is. fol. 37. b. Sectio. 5.  
Greene hew, and whereof so called. fol. 37.



## A Table.

### H.

**H**Ampton Court made an Honor, and also, a Forrest  
fol. 11. a. b.

Harts, when they doe mew their heads, they keepe them secrete in the Couerts. fol. 22. a. A Hart is called Ceruus of Cereston, which is croched or forked in the toppe. fol. 22. a. A Hart, and a Hart royall, and their difference. fol. 24. a. b. When a Hart shalbe called a Hart, & when a Stagge. fol. 24. a. A Hart, if the king doe hunt him, shalbe called a Hart royall. fol. 24. b. A Hart proclaimed. fol. 24. b. Three sorts of Harts. fol. 24. b. A Hart called fera regalis. fol. 25. a. A Hart and a Hind, & their proper termes of their age and season. fol. 25. b. How the slaying of a Hart within the Forrest is punishable. fol. 29. b.

A Hare, and her proper termes of age and season. fol. 25. Cap. 4. Secti. 5.

Hedges, & what hedges men may make about their woods, and what about their Cozne and pasture within the Forrest. fol. 44. a. Hedges about woods, and hedges and inclosuer about Cozne, Medow and Pasture, and their difference. fol. 49. a.

Hauking and Hunting within the Forrest. fol. 105. Cap. 18. Secti. 1. Who may Hauke and Hunt within the Forrest. fol. 105. b. Sectio. 2. Hunting and Hauking by licence. fol. 106. Sectio. 3. fol. 108. Sectio. 3. How a man may Hunt, and slay his owne fee Deere within the Forrest of another. fol. 110. b. Sectio. 5. Of the signification of these two words, Hauking and Hunting. fol. 116. b. Sectio. 10.

Hue and Crie and how to be followed. fol. 125. Sectio. 1.

By whome the same shalbe made and followed. fol. 119. Sectio. 2. fol. 124. Sectio. 7. Hue and Crie, if the offender

## A Table.

fender wil not yeeld himfelfe, it is lawfull in fome fort to kill him. fol. 119. Sect. 3. Hue and Crie after offenders with freſh lute. fol. 120. Sectio. 4. Hue and Crie after offenders in the Forreſts. fol. 124. Sectio. 6.

### I.

**I**uſtices of the Forreſt, and Juſtices Itinerantes. fol. 34. b.

*Iuſtices Hac vice tantum.* fol. 34. b.

Infra regardum foreſtæ, & infra foreſtam, and their difference. fol. 39. b. Secti. 4.

### K.

**A** King and his royall prerogatiue to haue Forreſts where he will appoint. fol. 7. C. 2. Sect. 1. King or Queene by hunting of a Hart doth make him royall or a Hart royall. fol. 24. b. The king cauſeth a Hart to be proclaimed in his hunting. fol. 24. b.

Killing of wild beaſtes in a Forreſt, loſſe of life. fol. 28. b.

### L.

**L**icence for cutting downe of wood within a Forreſt, and in what caſes the ſame is to bee graunted. fol. 43. 44. b.

Licences to bee graunted for felling of wood, and vpon what certificate the ſame is to be done. fol. 43. b.

Licences for felling of wood, and that there are ten things firſt to be conſidered before the granting of the ſame. fo. 43. b.

Licences to cut downe woode, are no licences to deſtroy the ſame, but to preſerue it to grow againe. fol. 44. b.

Licences to Hunt in Forreſts. fol. 109. b. Sectio. 5.

A licence of pleaſure and a licence of profit, and their difference. fol. 109. Sectio. 5.

Licences to Hunt in Forreſts, and how men may uſe the ſame, and how not. fol. 106. b.

Sectio. 3. Licences or warrants to Hauke or Hunt in Forreſts, and who may graunt the ſame. fo. 108. b. S. 4.

Licences



## A Table.

Licence to Hunt in Forrests, and hee, that doth abuse his licence or authoritie, shalbe taken for a Trespasser ab initio. fol. 112. b. A licence in Law, and a licence in Fact, and their difference. fol. 112. b. Sectio. 8.

### M.

**M**Artrou or Martin, and of their proper termes of arte, Ages, degrees, and seasons. fol. 26. a.

Meeres and bounds of the Forrest. fol. 38. Cap. 7. That euerie Forrest must haue Deeres and bounds. fol. 38. Cap. 7. Sect. 2. That the same doe belong to the king onely. fol. 38. b. Sect. 3. That euerie Deere & bound of the Forrest is parcell of the Forrest. fol. 39. a.

### N.

**N**Ames of wild beasts belonging to the Forrest, Chase, and, Warren. fol. 24. Cap. 4. Sect. 5.

Nusance of the Forrest, and what the same is. fol. 101. Cap. 17. Sect. 1. Nusance of the Forrest, and how many sorts thereof. fol. 101. Sect. 2. Who shall inquire of them. fol. 102. How they are to be remedied. fol. 103. Sect. 4. How the offenders are to be punished for Nusances. fol. 104. Sect. 5. Whereof the same taketh the name of Nusance. fol. 104. b. Sect. 6. Nusance by the Forrest Law, and Nusance by the common Law, and their difference. fol. 104. b. Sectio. 7.

Non vsur, cause of seisure. fol. 42. b.

### O.

**O**fficers, and what Officers there must be of necessitie belonging to euerie Forrest. fol. 6. b.

Ornaments that doe beautifie a Forrest. fol. 28. b. Cap. 5.

Offenders in Forrests punished with the losse of life, members, or eyes. fol. 35. a.

### P.

**P**awnage, & what the same is. f. 68. cap. 12. Of the time of Pawnage in the kings woods. fo. 70. a b Who shall

## A Table.

- Shall take the Pawnage in the kings woods. fol. 70. a b  
 Of the time of Pawnage in the woods of other men. fo.  
 70. b Who shall receaue the Pawnage within the for-  
 rest in the woods of other men. f. 71. a Whereof called  
 Pawnage. f. 71. b The difference betweene Pawnage  
 and Agistment. f. 71. b  
 Preseruatiō of forrests, and what benefit doth grow to the  
 king by the same. f. 15. b Preseruing of forrests, & how  
 all forrests ought to be preserued. f. 15. b  
 Presidēt for presentmēt against trespassers in vert. f. 36.  
 Presentments and indictments for keeping of Dogges not  
 Expediated. fo. 99.  
 Proper names of wild beasts. f. 24. a. cap. 4.  
 Proper termes appertaining to hūting. fol. 26. b. 27. a b  
 Proper termes for the Excrements of wild beasts. f. 27.  
 Proper termes for the footing of all kind of wild beasts  
 of venery & chafe. f. 27. Proper termes for the taile of  
 al wild beasts of venery & chafe. f. 27. b Proper termes  
 for the head and the hoznes of all wild beasts of venery  
 and chafe. fo. 27. b. 28. a  
 Punishment of wast within the forrest. fol. 46. b  
 A Parlew hunter may not slea any wild beast within any  
 mere of the Forrest, nor yet haue the same, if he do slea  
 him there. fol. 39.  
 Purpresture of the forrest, & what the same is. fo. 53. b. cap.  
 10. What shalbe said to be Purpresture within the for-  
 rest. f. 54. b And the forfeiture & punishment for a Pur-  
 presture made in the kings woods or lands within the  
 Forrest. f. 58. a. Sectio 4. The forfeiture & punishmēt  
 for the same being made in a mā's owne woods or lands.  
 fo. 58. b Sectio 5. Purpresture, & wherof so called, f. 59  
 Sect. 6. Purpresture, wast, and, assarte, and their diffe-  
 rēces. f. 59. sect. 7. Purpresture, & certain perfect rules  
 for the framing of presentments for the same. f. 60. b



## A Table.

**P**uralley, & what the same is. f. 126. b. f. 127. cap. 20. sect. 1.  
 And how the same did first begin. f. 127. cap. 20. sect. 2.  
 Puralle, Purliu, Purliuy, & wherof so called. c. 20. f. 3.  
 Puralley in some sort forrest still quo ad to some men,  
 c. 20. f. 4. The Puralle free for some mē in some sort to  
 hunt. c. 20. f. 5. Puralle and forrest, & their difference. c.  
 20. f. 6. Puralle, forrest, & that which was neuer forrest  
 nor Puralle, & their difference. c. 20. f. 7. Who shalbe  
 said to be a Purallee man. c. 20. f. 8. Who may hunt in  
 the Purallee. c. 20. f. 8. In what sort a Purallee man  
 may hunt in the same. c. 20. sect. 9. When & how often a  
 Purallee man may hunt in the same. c. 20. f. 10. How  
 far a Pourallee mā, may pursue & follow his chafe. c. 20.  
 f. 11. In what cases a Purallee man may pursue & fol-  
 low their Chase into the forrest, & there take & haue the  
 thing so chased & slaine. c. 20. f. 12. The lawes & ordi-  
 nāces for the Purallees, & of their first beginning. c. 20.  
 f. 13. When, where, & in what sort, the trespasses & of-  
 fences done in the purallee shalbe tried & punished. c. 20.  
 f. 14. Purallee in some sort forrest still, & therefore the  
 king hath Raungers to attend the Purallees. c. 20. f. 15.  
 Purallee, and how the same is first made. fol. 131. b.  
 Perambulation of the bounds & limits of the Forrest. fol.  
 131. b. 132. 134. 135. 136. &c.

R.

**R**aunger, an officer of the Purallee, & to the forrest, not  
 of the forrest. cap. 20. f. 15. Raüger, & his office, See  
 the whole chapter of the Purallee. f. 127. How a Raün-  
 ger is made, his othe, & aucthoritie. c. 20. f. 16. Wherof  
 called a Raunger. cap. 20. sectio 16. 17.

Recognisance taken to the queene, to keepe & preserue the  
 woods, in case that licence be graunted to sell thē, f. 44.

Regard of the forrest, and the signification thereof. fol. 39.  
 b. sectio 4.

Reue

## A Table.

Reue and foure men. fol. 34.b

Roo and Roobuck, and of their proper termes, ages, degrees, and seasons. fo. 26.a.b

### S.

Seasons, degrees, and ages of wild beastes. fol. 24.c. 4.f. 5.

Seasons of all kind of beastes of forrest, Chase, and Warren. fol. 26.b

Seasure of woods into the kings hands for making a wast of the forrest. fo. 46.a. 47.b Seasure of meadow & pasture into the kings hands, for a wast in conuerting the same into tillage. fol. 46.b. 47.a

Swanimote Court, and the time of holding of the same. fol. 62.a.b. f. 63.a.b

Swine not to be suffered in the Forrest in the fence moneth. fol. 73.a.b

Surchargers of the Forrest, and who is a Surcharger by the law. fol. 82. And how they are to be punished. fo. 84.a.b. fol. 85.a.b.

### T.

Territorie, and the significatio of that word. f. 1.c. 1.f. 3.

Turfes, & digging of turfs in a forrest punishable. f. 34.b

Trespasers in the kings special vert shal forfeit the Instruments wherwith the trespasse was done. fo. 35.b. sect. 3.

Trespasers in vert fined for the same. f. 35. 36. Trespasers in vert shal forfeit the value of the vert, & also all instruments wherwith the trespas was done & the vert caried away. f. 36.a

Trespasers & malefactors in forrests, & how to be punished for y same. f. 113.f. 9. Trespasers & offenders in forrests are to be attached, and by whom. f. 118.c. 9.

Trespasers pursued with Hewe & Crie. f. 119.f. 2. Trespasers in forrests, are all principals for there can be no accessaries therof. f. 123. sect. 5.

Termes proper to hunting. fol. 26. & 27.

Trespasor ab initio. fol. 112. sectio 7.



## A Table.

### V.

**V**enison, and what is Venison, fol. 28. C. 5. Venison, and whereof the same taketh the name of Venison, fol. 31. S. 4. Venison and the general and special signification thereof, fol. 30. b. Sect. 2. fol. 31.

Venerie, & beasts of venerie, & the signification thereof, fol. 29. a. Vert, and what is Vert, fol. 6. a. Vert in generall, & what the same is, fol. 32. a. C. 6. How many sorts of Vert there are, fol. 34. C. 6. What is Vert in the kings wood, fol. 35 S. 3. What is Vert in the woods of every other man, fol. 36. Whereof it taketh the name of Vert, fol. 37. S. 5. That the Forrest Law for Vert remaineth, as it was before Carta de Foresta, not altered, fol. 35.

### W.

**W**astes of the Forrest, and what shalbe said to bee a wast of the forest, fol. 44. b. A wast, and, destruction of the Forrest, & their difference, fol. 44. 45. Sect. 4. A wast of the Forrest, & a wast at the common Law, and their difference, fol. 46. a. b. Wastes of the Forrest, and presentments for the same, & certain perfect rules for the framing thereof, fol. 47. a. b. Wast and Assart, and their difference, fol. 49. a. b.

William the Conquerer made new Forrest, fol. 5. a.

Wild beasts, birds, & foules, were onely the kings, wheresoever they were found, fol. 12. b. Wild beasts and their severall seasons, degrees and ages, fol. 24. C. 4. Sect. 5.

Warren, and which are beasts of Warren, fol. 22. Sect. 3. A free Warren, and the nature of it, and the forme of the graunt from the king, fol. 23. a.

Woods and Couerts of the Forrest, & their difference, fol. 40. Cap. 8. That no man may cut downe his owne woods within his own freehold within the forest, fol. 41. a. S. 2. That no man may cut downe his woods within the Forrest without a licence from the Justice in Eyre of the Forrest, fol. 42. b. Sectio, 3.

